

# THURSTON DANIELS TESTIMONY AND COURT RULING

**MARCH 15, 2016**

## Daniels Testimony:

118 All fingerprints are unique

119 Does his examination and feature identification with latent side-by-side with the suspect's prints

127 Can't say what he learned at IAI training

Not trained on error rates

128 Not certified

129 CPD print unit not accredited

130 No error management system "other than the Public Defender's Office"

130 Q: Your unit has nothing that you know of in place to deal with what would happen if an error occurred?

A: No, not from the Chicago Police Department.

130 No documentation of any disagreements between Daniels and other examiners.

131 No full procedure manual in the CPD print unit

133 Memos don't provide guidance for actual comparison work

134 Same

138 Not familiar with general order that requires him to stay current on research

138 Seems to credit research done by "Department of Justice, or the IAI, or some other organization which is really into forensics."

139 Claims that fingerprint comparison is reliable because it has been done for so long:

Q: And you're basing that because it's been done for over a hundred years?

A: I would think that at this time if it wasn't reliable, it wouldn't be a science at all.

141 CPD print unit does not receive the Journal of Forensic Science

142 Has not read any studies on current research involving absolute source attribution

142 Does not know what source attribution is

144 Q: So do you know how ACE-V is assessed for reliability?

A: I don't know how they would assess ACE-V.

144 Has not read studies on repeatability and reproducibility

144 Gets repeatability and reproducibility mixed up

145 Does not really understand repeatability and reproducibility- "I'll take your word for it."

149 Is able to define a close non-match

151 Q: Officer Daniels, can you tell us anything about error rates in your field?

A: No. Other than I just read a Department of Justice memo that said they were so low.

159 Testifies to a reasonable degree of scientific certainty.

169 Testifies to an identification, says prints made by the same person

171 Prints from same person to a reasonable degree of scientific certainty

181 Can take screen shots of AFIS searches (so should be able to print annotated latents)

204 Claims that print image provided in discovery is not good enough because he uses a 5x magnifier and "my bright light."

206 Doesn't know connective ambiguity:

Q: If there is one dissimilarity that can't be explained, you rule that as an exclusion, is that right?

A: Yes, if it have no explanation for it.

207 Acknowledges the one true dissimilarity rule.

Court ruling:

245 "Mr. Daniels, as a latent print examiner, is woefully unknowledgeable about anything other than one DOJ report. . he seems oblivious and doesn't seem concerned about educating himself as to what's going on in his own field. . he certainly doesn't strike me as the world's greatest latent examiner."

245 "The Chicago Police Department procedures where they have no audits, no verification of their procedures, no participation- they don't follow the FBI rules- casts a doubt on their whole departmental procedures. I find that to be woefully inadequate adding to the problems for the State proving their case beyond a reasonable doubt."

STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF C O O K )

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
DEPARTMENT OF JUVENILE JUSTICE AND CHILD PROTECTION  
JUVENILE JUSTICE DIVISION

IN RE:

Minor.

No.

REPORT OF PROCEEDINGS had at the hearing

of the above-entitled cause, before the Honorable STUART  
KATZ, Judge of said court, on the 15th day of March,  
2016.

PRESENT:

HON. ANITA M. ALVAREZ,  
State's Attorney of Cook County, by:  
MS. MAHA GARDNER,  
Assistant State's Attorney,  
on behalf of the People;

HON. AMY P. CAMPANELLI,  
Public Defender of Cook County, by:  
MS. AMBER MILLER,  
MR. JOSEPH CAVISE, and  
MS. MELISSA MYER,  
Assistant Public Defenders,  
on behalf of the Minor Respondent.

Morgan Antosiak  
Court Specialist

1 THE COURT: Thank you, Mr. Kovacs. You may  
2 step down.

3 (Witness excused.)

4 THE COURT: Sir, please step forward and raise  
5 your right hand.

6 (Witness sworn.)

7 THE COURT: Have a seat in that chair right  
8 there.

9 OFFICER THURSTON DANIELS  
10 called as a witness on behalf of the People of the  
11 State of Illinois, having been first duly sworn,  
12 was examined and testified as follows:

13 DIRECT EXAMINATION

14 BY MS. GARDNER:

15 Q Mr. Daniels, can you please state your name  
16 for the record.

17 A Thurston Daniels, last name D-a-n-i-e-l-s.

18 Q And where are you employed?

19 A Chicago Police Department.

20 Q Can you state your star number, please.

21 A 7625.

22 Q How long have you been employed with the  
23 Chicago Police Department?

24 A 16 years.

1 Q And what is your specific assignment  
2 currently?

3 A I'm assigned as a latent print examiner.

4 Q How long have you been assigned to the  
5 latent print unit?

6 A Eight years.

7 Q And so for the past eight years out of the  
8 16 years you've worked for CPD, you have been  
9 working in the latent print unit?

10 A Yes.

11 Q And is your title a latent print examiner?

12 A Yes.

13 Q What are your official duties as a latent  
14 print examiner?

15 A I evaluate digital photographs, negatives,  
16 and fingerprint lists for the presence of latent  
17 impressions. I analyze those latent impressions to  
18 see if they are suitable for comparison. I compare  
19 those unknown latent impressions to known  
20 impressions. I record my conclusions on a  
21 fingerprint examination report. And I testify in a  
22 court of law as an expert if required to do so.

23 Q Now, to become a latent print examiner, did  
24 you have to take a test?

1 A Yes.

2 Q And did you pass that test?

3 A Yes.

4 Q In the time that you have been a latent  
5 print examiner doing the duties that you just  
6 described, in those eight years, how many  
7 comparisons would you say that you have made?

8 A Thousands.

9 Q And based on all of those comparisons that  
10 you've made, how many identifications have you  
11 effectively made?

12 A Hundreds.

13 Q Have you received any specialized  
14 training -- or did you receive any relating to  
15 latent fingerprints?

16 A I received 192 classroom hours in the  
17 analysis, comparison, and evaluation of latent  
18 prints. That was followed by a one year  
19 apprenticeship with the latent print examiners of  
20 the Chicago Police Department, supplemented with  
21 40 hours of ride along training with the evidence  
22 technicians of the Chicago Police Department,  
23 supplemented with 40 hours of classroom training  
24 from a retired supervisor of the FBI's Latent Unit.

1 Q And in addition to the training that you  
2 received in order to become a latent print  
3 examiner, do you also go through continued training  
4 while you are a latent print examiner?

5 A Yes.

6 Q Okay. Are you a member of any professional  
7 organizations?

8 A The IAI, which is the International  
9 Association for Identification.

10 Q How long have you been a member?

11 A Approximately, since 2008.

12 Q Officer Daniels, earlier you testified that  
13 part of your job duties are to testify in court on  
14 the comparisons or identifications that you make.  
15 How many times have you testified and then  
16 qualified as an expert on fingerprint  
17 identifications?

18 A Over 10 times.

19 Q And has that -- do you know what counties  
20 you've testified in?

21 A They've all been in Cook County.  
22 Bridgeview, 26th and Cal, the Dirksen building,  
23 those are all Cook County.

24 Q You also specified that part of your job



1 duties is to make comparisons and identifications,  
2 and you mentioned latent print. Can you describe  
3 what a latent print is?

4 A On the underside of your hands and the  
5 bottom of your feet, you have a skin, which they  
6 refer to as corrugated, which means it has raised  
7 areas and lower areas similar to the material  
8 corduroy.

9 The raised areas are what we refer to as  
10 ridges. These ridges they bend, they turn, they  
11 have different shapes and widths. They stop. They  
12 start. Sometimes they break into two or three.  
13 Sometimes they appear as dots.

14 Well, when these ridges are sufficiently  
15 covered, normally through sweat, they increase the  
16 friction of when you touch objects. That's why  
17 they call it friction skin and friction ridges.  
18 And so when they're sufficiently covered, mainly by  
19 sweat, when you touch an item, you may leave a  
20 reproduction of the pattern of the friction ridges  
21 on that surface.

22 And normally, what that latent impression  
23 has left is not visible to the human eye. It's  
24 hidden, and it must be processed, and that's what

1 latent means. It's hidden, so they call it a  
2 latent impression.

3 Q Now, you said, "You may leave an  
4 impression." Does that mean that you don't always  
5 leave an impression if you touch a surface?

6 A That is correct.

7 Q And you also mentioned friction ridge skin  
8 right now in your detail. Can you tell me, are  
9 there different levels of detail in friction ridge  
10 skin?

11 A Yes, there are three levels.

12 Q And can you briefly describe those three  
13 levels?

14 A The first level would be the overall flow  
15 of the ridges. In fingerprints, they have three  
16 patterns: whirls, loops, and arches. In the  
17 second level of detail, you're looking at the  
18 specific ridges and their paths; which way do they  
19 go? Do they stop? Do they break into two? Do  
20 they appear as dots? The third level would be like  
21 the breadth of the ridge, the width of the ridge,  
22 the pores in the ridges. Those would be considered  
23 third level details.

24 Q And are you familiar with analyzing all

1 three of those levels?

2 A Yes.

3 Q Can you also describe for the Court what an  
4 inked print is?

5 A That's the intentional recording of a  
6 print. Most people know it as putting thin ink on  
7 the fingers and putting it on a white background so  
8 that the fingerprints which are taken, the person  
9 who left then is known as the owners of those  
10 fingerprints.

11 Q So where a latent print is a hidden print  
12 on a surface, an inked print is an intentional  
13 print made with ink on a white surface?

14 A Most commonly. Now they use scanning to  
15 take a lot of fingerprints, so it's probably more  
16 common now.

17 Q Okay. And then can you briefly describe to  
18 the Court what the two basic principles of  
19 fingerprint identification are.

20 A Persistence, meaning your fingerprints are  
21 formed prior to birth, and they remain the same  
22 throughout your lifetime until after death when  
23 decomposition come in. And uniqueness, meaning no  
24 two fingerprints have ever been found to be alike.

1           Q   And as you stated that you make  
2           comparisons, and sometimes based on those  
3           comparisons you make identifications, can you just  
4           describe how fingerprints are compared and  
5           identifications affected.

6           A   Well, you have side by side comparisons.  
7           Meaning, you place the latent impression next to  
8           the known impression, and then you compare the  
9           ridge details of both impressions in corresponding  
10          areas. Meaning, if I have ridge endings in this  
11          area of the latent print, I should have that ridge  
12          ending in the known print. It should be the same  
13          type of detail. It should be going the same  
14          direction.

15                 And when I get to the next detail, if it's  
16          a bifurcation, a dot or whatever, it should be  
17          present in that known print too. If I go three  
18          over in latent, I should be able to go three over  
19          in the known and find the same detail. So I have  
20          ridge details of the same type, direction, and  
21          relative position in both prints in corresponding  
22          areas.

23                 Q   And are identifications made when you find  
24          these similar characteristics of similar quality

1 and similar quantity?

2 A If I have a sufficient quantity and quality  
3 of ridge details in the corresponding areas of both  
4 prints, then an identification can be made.

5 MS. GARDNER: Your Honor, at this time I would  
6 tender the witness as to his qualifications in the  
7 field of latent print comparisons.

8 THE COURT: Any questions?

9 MR. CAVISE: Yes, Judge. Thank you.

10 CROSS-EXAMINATION

11 BY MR. CAVISE:

12 Q Officer Daniels, nice to see you again.

13 A Good afternoon.

14 Q Officer Daniels, you gave your CV to both  
15 the parties in response to subpoena; right?

16 A Correct.

17 Q Okay. And you sent a complete CV to us;  
18 right?

19 A Yes.

20 Q And during the pendency of this case you  
21 haven't updated your CV?

22 A No, I haven't updated the CV.

23 Q Okay. You've been with the print unit  
24 since 2007; right, Mr. Daniels?

1 A That is correct.

2 Q Before that, you were a patrol officer?

3 A Yeah. Assigned to a gang team in the 5th  
4 District.

5 Q Okay. You've been with CPD since 1999;  
6 right?

7 A That is correct.

8 Q Officer Daniels, you did complete an  
9 undergraduate degree at Chicago State in '94;  
10 right?

11 A That is correct.

12 Q And that is a Bachelor's of Science; right?

13 A That is correct.

14 Q That's in mathematics; right?

15 A Correct.

16 Q Officer Daniels, you don't have a  
17 professional degree; right?

18 A Professional?

19 Q Degree beyond your undergrad?

20 A No.

21 Q Okay. And you don't have any degree that's  
22 specific to forensic sciences?

23 A That is correct.

24 Q All right. I want to talk just for a few

1 minutes about the requirements in your unit, okay?  
2 When you were accepted into the latent print unit,  
3 CPD didn't require you to have a forensic  
4 background; right?

5 A That is correct.

6 Q And CPD didn't require any professional  
7 degree?

8 A That is correct.

9 Q And, in fact, CPD did not require any prior  
10 experience at all in forensic sciences; right?

11 A Correct.

12 Q And when you applied to the Latent Print  
13 Unit, you were brand new to doing latent print  
14 examination?

15 A That is correct.

16 Q So since you're brand new, and you're going  
17 into the unit brand new, you participated in what  
18 is -- I guess, what you called an apprenticeship;  
19 right?

20 A That is correct.

21 Q The apprenticeship is a defined term;  
22 right? It's one year long; correct?

23 A Yes.

24 Q In your case that was from July of '07 to

1 July of '08?

2 A Approximately, yes.

3 Q The apprenticeship meant that you, for lack  
4 of a better word, followed another CPD analyst  
5 around for a year; right?

6 A Not followed.

7 Q You learned from another CPD analyst who  
8 came before you?

9 A Yes, I was mentored by another.

10 Q Okay. Mentored is a fine word. All right.  
11 And the person that you followed in the CPD print  
12 unit had followed someone before him or her; right?

13 A I would assume, yes.

14 Q And that's how the unit operates. They  
15 create an oral history of doing latent print  
16 examination; right?

17 A Practical, not oral. I mean, you have to  
18 do the work. You don't just sit there. You have  
19 to work.

20 Q You learn from someone who speaks to you  
21 face-to-face; right?

22 A Yes, you do.

23 Q We're going to go back to your CV for a  
24 second. You said that in addition to the



1 apprenticeship, you did 40 hours of classroom  
2 training after the apprenticeship; right?

3 A Yes.

4 Q Okay. And I want to be specific. We're  
5 talking about July of 2010 from Debbie

6 Benningfield; right -- I'm sorry. That was an 8  
7 hour training. Do you recall that one in July of  
8 2010?

9 A Yeah, that was 8 hours.

10 Q And the 40 hour training was in October of  
11 2008, and that was from Ivan Futrell?

12 A Futrell, yes.

13 Q F-u-t-r-e-l-l. And that was just after  
14 your apprenticeship had ended?

15 A Correct.

16 Q Okay. In 2012, you didn't have any  
17 training listed on your CV?

18 A No.

19 Q In 2011, you listed no training?

20 A Correct.

21 Q In 2010, we just discussed with Debbie  
22 Benningfield, that was 8 hours?

23 A Correct.

24 Q In 2009, you had zero hours of training in

1 fingerprint examination?

2 A Correct.

3 Q Okay. And I think -- forgive me if we  
4 covered it, but just as your apprenticeship ended,  
5 you had 40 hours with Futrell?

6 A Correct.

7 Q You have had no training outside of your  
8 unit since 2010?

9 A Incorrect, because I've been to conferences  
10 for the IAI --

11 Q Okay.

12 THE COURT: Let him finish.

13 You've been to conferences. Go ahead.

14 THE WITNESS: From the Illinois division of the  
15 International Association for Identification. I  
16 believe I've been to the last three conferences  
17 they've had --

18 BY MR. CAVISE:

19 Q Right.

20 A -- so you receive training there.

21 Q Okay. So in 2015, 2014, and 2013, you went  
22 to the Illinois division of the International  
23 Association of Identification's annual conference;  
24 is that right?

1 A That is correct.

2 Q Those conferences occur once a year; right?

3 A That is correct.

4 Q And are they held in, like, a hotel or a  
5 convention hall?

6 A They're held in different places. I  
7 believe the last one was held at, maybe, the  
8 Naperville Police Department.

9 Q Okay.

10 A If I'm correct.

11 Q Your unit goes together to that; right? Or  
12 I should say everyone who works in your unit goes  
13 to the IAI conferences?

14 A I don't think everybody goes.

15 Q Okay. Just the lucky once?

16 A I'm not sure everybody was there.

17 Q Okay. But IAI is not just for fingerprint  
18 analysts; right?

19 A That's correct.

20 Q Because identification means more than just  
21 doing ridge impression comparison; right?

22 A That's correct.

23 Q And, in fact, the conferences, they don't  
24 focus exclusively on fingerprint analysis?

1           A    That's correct.

2           Q    There's other stuff you can learn there

3           that doesn't have anything to do with what you

4           practice; right?

5           A    That is correct.

6           Q    Okay. Can you tell us what sessions you

7           attended last year?

8           A    I couldn't name them off of my memory. I

9           would have to go back to the conference agenda and

10          look. Then I could tell you what class I attended.

11          Q    Did you learn anything about error rates at

12          the conference last year?

13          A    No.

14          Q    Okay. Did you learn anything about the

15          reliability of your method last year?

16          A    ACE-V?

17          Q    Yes. We just haven't gotten there. But

18          yes, your method is the ACE-V; right?

19          A    Yes.

20          Q    And that -- I guess, just for the record --

21          THE COURT: I know what the ACE-V is.

22          MR. CAVISE: Thank you, Judge.

23          BY MR. CAVISE:

24          Q    Okay.

1           A    I can't recall off the top of my head if  
2 they focus on ACE-V.

3           Q    Okay. Do you recall any sessions on  
4 cognitive biases in fingerprint examination?

5           A    I'm not sure. I just went to a conference  
6 that talked about -- but I'm not sure if it was the  
7 IDI --

8           Q    Okay. You're not certified by the IAI;  
9 right, Mr. Daniels?

10          A    Correct.

11          Q    Officer Daniels, excuse me. You're not  
12 certified by any forensic science organization or  
13 association; right?

14          A    Correct.

15          Q    You did say that you are a member of the  
16 IAI; right?

17          A    Yes.

18          Q    And you've been a member since you started  
19 in the print unit?

20          A    Since '08.

21          Q    And membership requires a fee?

22          A    Yeah.

23          Q    And CPD pays that fee for you?

24          A    I pay that fee.

1 Q You pay the fee?

2 A I pay the fee.

3 Q There's no test for membership in the IAI;

4 right?

5 A No.

6 Q Okay. Officer Daniels, the unit -- Print

7 Unit 166 -- the unit's not accredited?

8 A Correct.

9 Q The unit has never attempted to receive

10 accreditation since you've been there?

11 A Since I've been there, no.

12 Q No accreditation means that no one from

13 outside of CPD comes to check on the quality of

14 your work; isn't that what accreditation means?

15 A I'm not sure if that's the total meaning of

16 accreditation.

17 Q That's part of it, isn't it, Officer

18 Daniels?

19 A That is a part of accreditation.

20 Q When you apply for accreditation, it's an

21 outside organization that comes to review the

22 quality of work; right?

23 A I've never applied for accreditation, so I

24 couldn't answer that.

1 Q Okay. Your unit has no responsive  
2 documents to any audits that have been conducted;  
3 right, Mr. Daniels?

4 A To my knowledge, no.

5 Q So that means there's no responsive  
6 documents to external or internal audits; right?

7 A To my knowledge, no.

8 Q Okay. And in your unit, for all the  
9 analysts that are doing fingerprint examination,  
10 there's no error management system that's in place  
11 in your unit; right?

12 A Other than the Public Defender's Office --

13 Q I appreciate the compliment.

14 A -- checking my work.

15 Q Your unit has nothing that you know of in  
16 place to deal with what would happen if an error  
17 occurred?

18 A No, not from the Chicago Police Department.

19 Q Okay. And pertaining to your work  
20 personally, Mr. Daniels, there's no documentation  
21 of you having ever disagreed with the opinion of  
22 another examiner from your unit?

23 A No.

24 Q Okay. And there's no recording of any

1 discrepancy in your casework?

2 A No.

3 Q Okay. The forensic units have standard  
4 operating procedures; right?

5 A Yes.

6 Q And forensic units have policy manuals and  
7 protocols; right?

8 A Yeah.

9 Q Your unit doesn't have a standard operating  
10 manual; is that correct?

11 A I don't think it's a full manual, no. Not  
12 at this time.

13 Q What you have is a memo that's issued every  
14 so often; right?

15 A Well, yeah. Standard operating procedures,  
16 they just -- I don't believe have gone all the up  
17 the chain to the legal department and back down.

18 Q So what you have right now is that when  
19 your supervisor thinks of something he wants you  
20 guys to know, he issues a memo; right?

21 A Yes.

22 Q Okay. And those memos have directives that  
23 deal with handling the evidence in your casework;  
24 right?



1           A    Sometimes handling the evidence, sometimes  
2           it has to do with the reports.

3           Q    Okay.

4           A    It could be a number of things.

5           Q    So you know, Mr. Daniels, how to follow  
6           procedures for a chain of custody and control of  
7           evidence; right?

8           A    Yes.

9           Q    Okay. And you know how to make sure that  
10          you put the CB number on your print reports; right?

11          A    It's required, yeah.

12          Q    And that's the sort of thing the memos tell  
13          you how to do; right, Mr. Daniels?

14          A    Well, they don't tell me how to do them. I  
15          already know how to do those things.

16          Q    Okay.

17          A    He puts out memos if something were -- I  
18          guess, where he was to have an occurrence where  
19          there wasn't a standard practice.

20          Q    Okay.

21          A    He would put out a memo so that it's  
22          uniform throughout the unit.

23          Q    Okay. And so we're talking about the memos  
24          that we've already put out, okay, not ones that may

1       come in the future, obviously. The memos tell you  
2       that you have to complete an evidence submission  
3       form before doing an examination; right?

4           A    No. We don't do evidence submission forms.

5           Q    Okay. Did the memos tell you about the  
6       computer process for inventorying evidence?

7           A    We don't have to inventory -- well, I  
8       shouldn't say -- recently we've had to inventory  
9       cold case homicide evidence.

10          Q    Okay.

11          A    But other than that, we don't inventory  
12       evidence either.

13          Q    So, I guess, let's -- the expectation for  
14       you to have them all memorized, of course, is not  
15       mine. But these memos are written from '07 to  
16       2012; right? You're aware of that?

17          A    I don't know if '07 was the beginning.

18          Q    Is that what you have compiled? Are these  
19       memos that you keep at your cubicle?

20          A    I would have to go to my cubicle to see  
21       when he started.

22          Q    But, importantly, in these memos that serve  
23       as, I guess, what your unit calls procedure, you  
24       don't rely on these memos to tell you anything

1 about how to conduct ACE-V; right?

2 A Right.

3 Q Okay. And you don't rely on these memos to  
4 tell you what characteristics you should be looking  
5 for for a possible source of a latent; right?

6 A That's correct.

7 Q And the memos don't include any standard  
8 whatsoever for when you can say that a print has  
9 been identified; right?

10 A That's correct.

11 Q And they don't give you any guidance on how  
12 verification is supposed to be conducted?

13 A No. You don't need guidance for  
14 verification.

15 Q Okay. And they don't mention what to do if  
16 you have an opinion that's different from a  
17 colleague; right?

18 A No.

19 Q And just so we're clear, these memos you've  
20 been talking about, these are the only written  
21 directives that your unit keeps whatsoever?

22 A As far as I know.

23 Q Officer Daniels, you've taken proficiency  
24 tests; right?

1 A Correct.

2 Q And the company that administers the

3 proficiency tests is called Collaborative Testing

4 Services?

5 A Sounds correct.

6 Q Okay. Those tests are independent of your

7 casework?

8 A Yes.

9 Q You know when you're taking a test?

10 A Correct.

11 Q And you can take as much time as you want

12 to complete a test?

13 A Yes.

14 Q You have to come to one of three

15 conclusions for a sample that you're given on these

16 tests; right?

17 A Yes.

18 Q Those conclusion possibilities are

19 inconclusive, exclusion, and inclusion; is

20 that right?

21 A I'm not sure if inclusion is on there. It

22 could be. But I know identification and exclusion

23 are on there.

24 Q Are you aware that if you say a print is

1 inconclusive, it's not counted as an error on these  
2 tests?

3 A I'm not aware of that.

4 Q Okay. Are you aware that Collaborative  
5 Testing Services has, in fact, published that its  
6 results may not reflect the level of examination  
7 that's expected in casework?

8 A I didn't know that.

9 Q Officer Daniels, you've never been  
10 published; right?

11 A Correct.

12 Q And you've never conducted any research  
13 about latent print examination; right?

14 A That is correct.

15 Q And, Officer Daniels, no one has ever asked  
16 you to participate in publishable research; right?

17 A That is correct.

18 Q You have a lot of casework to do?

19 THE COURT: I'm sorry. Could you repeat the  
20 question?

21 BY MR. CAVISE:

22 Q I'm sorry. I said you have a lot of  
23 casework to do; is that right, Officer Daniels?

24 A It's not a lot. You can only do what you

1       can do.

2           Q    It's manageable?

3           A    It's more than manageable. I mean, you

4       work each case.

5           Q    Okay.

6           A    That's it.

7           Q    You work in a regular shift though?

8           A    Yeah, regular shift.

9           Q    So you have hours off and hours on?

10          A    Yeah. Eight hours on and go back the next

11       day.

12          Q    It's not as though somebody calls you and

13       says, "Hey, we got a print. Come in."

14          A    No.

15          Q    You don't spend your time then researching

16       and publishing about reliability in fingerprint

17       evidence?

18          A    Correct.

19          Q    Okay. And you leave that to other people,

20       whatever agencies they work for; right?

21          A    Yeah. Whoever does that.

22          Q    However, Officer Daniels, you do have,

23       through the Chicago Police Department, general

24       orders that as an officer in a latent print unit,

1       you have to follow; right?

2           A    Yes.

3           Q    And one of the duties listed on your orders  
4       is to keep abreast of innovations in the science  
5       and technology of fingerprints. Are you familiar  
6       with that order?

7           A    No.

8           Q    Okay. Now, would you agree, Officer  
9       Daniels, that to be an expert you have to be aware  
10      of what's going on in your field?

11          A    Yes. You have to have the knowledge.

12          Q    And you, in fact, have -- as someone who  
13      testified as an expert, you have an ethical  
14      obligation to know about the current research and  
15      developments in your field; right?

16          A    I'm sure if it's relevant. I'm sure  
17      there's a lot of research and development in the  
18      field that's not finished and --

19          Q    You're a latent print examiner; right?

20           THE COURT: Let him finish his answer.

21           MR. CAVISE: I'm sorry.

22           THE WITNESS: That's going on. So if there are  
23      a hundred studies or a hundred innovations --  
24      unless they've been, I guess, backed by the

1 Department of Justice, or the IAI, or some other  
2 organization which is really into forensics, would  
3 I know about something going on in Tennessee?

4 Probably not.

5 BY MR. CAVISE:

6 Q Okay. But when experts who are held in  
7 high regard -- for example, you mentioned the DOJ;  
8 right?

9 A Yes.

10 Q As a latent print examiner, when they issue  
11 publications about latent print examination, it's  
12 something you'd like to know about so you can  
13 continue to be an expert; is that fair to say?

14 A Yes, I would like to know if it's pertinent  
15 to the field.

16 Q Okay. And you have to rely on these  
17 experts from other organizations to do the  
18 researching and the publishing so that you can say  
19 that what you do is reliable; right?

20 A No. What I've done has been done over a  
21 hundred years. So I'm pretty sure it's reliable.

22 Q And you're just basing that because it's  
23 been done for over a hundred years?

24 A I would think at this time if it wasn't



1 reliable, it wouldn't be a science at all.

2 Q I would completely agree with you.

3 THE COURT: That's nice. Please don't testify.

4 MR. CAVISE: I'm sorry.

5 BY MR. CAVISE:

6 Q Officer Daniels, sometimes studies and  
7 research that's published, to go with DOJ for  
8 example, sometimes they will include strengths and  
9 limitations specific to latent print examination;  
10 right?

11 A Yeah.

12 THE COURT: I'm sorry. Could you say that  
13 again?

14 MR. CAVISE: Sometimes these studies will  
15 include strengths and limitations specific to  
16 fingerprint examination. I think it's close to  
17 what I said.

18 THE COURT: Thank you.

19 MR. CAVISE: And --

20 THE COURT: Was that a question?

21 MR. CAVISE: Yes, and he responded yes.

22 THE COURT: Oh, I didn't hear a response.

23 THE WITNESS: Yes, your Honor.

24 MR. CAVISE: Sorry. I'll stand back over here.

1 BY MR. CAVISE:

2 Q And these studies, I guess, there are a  
3 couple sources that the unit can rely on to get  
4 these studies; right? Those are usually scientific  
5 journals; is that fair to say?

6 A They can come from a number of sources.

7 Q Okay.

8 A I mean, I'm not in charge of tracking them  
9 down or following them.

10 Q Do you receive any forensic science  
11 journals, Officer Daniels?

12 A The IAI's journal.

13 Q Okay. Do you receive the *Journal of*  
14 *Forensic Sciences*?

15 A Not in general forensic science, no. Just  
16 the IAI's journal.

17 Q Okay. So you don't receive the *Journal of*  
18 *Forensic Identification*?

19 A I do not.

20 Q And you don't receive the *Forensic Science*  
21 *International*?

22 A No.

23 Q Okay. Officer Daniels, you said that when  
24 the DOJ publishes about fingerprint examination,

1 that might be something you want to pay attention  
2 to; right?

3 A That's correct.

4 Q And is it fair to say the FBI is regarded  
5 as one of the best fingerprint units around?

6 A They could be. A little bit behind us, but  
7 they do okay.

8 Q Okay. So if the U.S. Government via the  
9 DOJ and the FBI produced studies about print  
10 examination, those are the kinds of studies that  
11 you would rely on to know what's going on in your  
12 community?

13 A To a certain extent.

14 Q Okay. Now, one area of fingerprint  
15 examination that's getting a lot of attention  
16 lately is source attribution; right?

17 A I'm not sure.

18 Q You're not sure? Okay. Have you read any  
19 studies about the current developments in  
20 source attribution?

21 A I have not.

22 Q Okay. Do you know what source attribution  
23 is?

24 A No.

1 Q Okay. So you haven't read the DOJ's report  
2 on source attribution?

3 A I haven't seen that report.

4 Q Okay. Officer Daniels, ACE-V is the method  
5 that you use in your casework; right?

6 A Yes.

7 Q And in order to maintain your expertise in  
8 your field, you have to know if ACE-V is valid and  
9 reliable; right?

10 A Yes.

11 Q And as you said before, you don't do  
12 research into whether the ACE-V is valid or  
13 reliable?

14 A That's correct.

15 Q But you're aware that people do produce  
16 this research; right?

17 A I'm sure somebody produces research on  
18 everything.

19 Q Okay. And so ACE-V is your method. It's  
20 what you use on every examination; right?

21 A Yes, if it goes all the way to a  
22 conclusion.

23 Q Okay. And so if the -- but that's not -- I  
24 guess we'll get back to that. You said if it goes

1 all the way to a conclusion?

2 A It could just be A's. It may not be no C,  
3 E, or V.

4 Q I see. Okay. That makes sense. Thank you  
5 for clarifying.

6 And you so said if a reputable organization  
7 publishes a study about ACE-V, which you use every  
8 day, you probably want to stay current on that?

9 A If it was pertinent to what I do, yes.

10 Q So do you know how ACE-V is assessed for  
11 reliability?

12 A I don't know how they would assess ACE-V.

13 Q Okay. Can you tell us what you know about  
14 repeatability and reproducibility using the ACE-V  
15 method?

16 A I would imagine that would be more of a  
17 peer review. Meaning, that I go through a case, I  
18 come to a conclusion, and my conclusion has been  
19 able to be repeated by another qualified examiner.

20 Q Have you read any current studies on  
21 repeatability and reproducibility?

22 A I have not.

23 Q Okay. So you took a stab at repeatability;  
24 right? Reproducibility, Officer Daniels, is this

1 fair to say -- you'll tell me -- is when you look  
2 at a print on a Monday, and a different analysts  
3 looks at it and comes to the same conclusion;  
4 right?

5 A That sounds like repeatability.

6 Q Okay. So then, I guess, the opposite would  
7 be when -- not the opposite, but another -- whether  
8 you're calling it repeatability or reproducibility,  
9 there's also circumstances where you look at a  
10 print on a Monday, and then the same examiner, you  
11 yourself, would look at it on Friday and want to  
12 come to the same conclusion; right?

13 A If that's what you say it is.

14 Q And those are the two concepts of  
15 repeatability and reproducibility?

16 A If that's what you say they are, I'll take  
17 your word for it..

18 MS. GARDNER: Your Honor, I would just object.

19 THE COURT: That objection is sustained. He  
20 doesn't know, and you're putting words in his  
21 mouth. Basically, you're testifying. The  
22 objection is sustained.

23 BY MR. CAVISE:

24 Q Officer Daniels, would you agree that in

1 either one of those instances, if the second  
2 examiner were to come to a different conclusion  
3 than the first, that there would be a problem with  
4 ACE-V's reliability?

5 A No.

6 Q You wouldn't agree with that?

7 A No, because everybody has a different level  
8 of training and ability. So what one person is  
9 able to come to a conclusion to, another person may  
10 not have the experience or have had the training.

11 Q Okay. When was the first time you  
12 testified in a case as an expert?

13 A My best guess would be 2009 in juvenile  
14 court right here.

15 Q And that was a year after you had finished  
16 your apprenticeship?

17 A Yes.

18 Q Okay. So your testimony now about a  
19 fingerprint is going better than it was then?

20 A I don't know if my testimony is better. I  
21 mean, my ability as an examiner is better, because  
22 I have a lot more experience than I had at the  
23 time.

24 Q Okay. Your unit as a whole does not do

1 validation research; right?

2 A Correct.

3 Q I'm sorry. Did you say you do not believe  
4 that there's a reliability problem with ACE-V?

5 A I don't.

6 Q Okay. I want to just talk very briefly  
7 about AFIS, okay? AFIS is a database of known  
8 fingerprints; right?

9 A No. AFIS is a software system, which  
10 searches a database of known fingerprints.

11 Q Okay. Thank you. And you work for the  
12 police department. Were you fingerprinted when you  
13 got hired with the police department?

14 A Yes, I was fingerprinted.

15 Q So in some AFIS, your fingerprint is  
16 probably in there; right?

17 A Yes, my fingerprint is in our database.

18 Q And if I filed a TSA pre-check, I'm  
19 probably in the database?

20 A I've never flown TSA pre-check, so I'm not  
21 -- I can't answer that one.

22 Q So when you get a print, you don't always  
23 have a suspect; right?

24 A Correct.



1 Q And if you don't have a suspect, you may  
2 use AFIS to try to locate a possible source of the  
3 latent print; right?

4 A That is correct.

5 MS. GARDNER: I would just object as to the  
6 relevance of all the AFIS testimony in terms of  
7 qualifying him as an expert.

8 THE COURT: That's what I thought we were  
9 doing. This isn't a cross-examination of his  
10 procedures for what he's done. This is his  
11 qualifications as an expert. How is this relevant  
12 to that?

13 MR. CAVISE: I'm sorry, Judge, I'm going to  
14 continue -- or if you'll allow me to, I would  
15 continue questioning the witness about his  
16 knowledge of how AFIS operates. That's a part of  
17 his examination.

18 THE COURT: How is this pertinent to his  
19 qualification as an expert witness?

20 MR. CAVISE: Because if he relies on using  
21 AFIS, Judge, and is not familiar with the pitfalls  
22 of AFIS, then, ultimately, it gives more to the  
23 picture of him not being qualified.

24 THE COURT: That goes to the weight -- that

1 might go to the weight of his testimony. It does  
2 not go to the qualifications. I mean, if you want  
3 to ask him if he's familiar with AFIS, I suppose  
4 that would be part of qualification. But going  
5 into the reliability of AFIS, or any attack on  
6 AFIS, that would not be allowed.

7 MR. CAVISE: Okay.

8 BY MR. CAVISE:

9 Q Have you heard of the term "close  
10 non-match," Officer Daniels?

11 A Yes.

12 Q What is a close non-match?

13 A That would be two prints that have similar  
14 ridge details, but they are not -- an  
15 identification did not come from the same source.

16 Q Okay. And, Officer Daniels, you said that  
17 you pay attention to the FBI. Are you familiar  
18 with the *Brandon Mayfield* case?

19 A I've heard of the *Brandon Mayfield* case,  
20 yes.

21 Q And you know that was the FBI lab; right?

22 A Yes.

23 Q Did you read any of the reports that were  
24 written about what went wrong with the FBI lab?

1           A    Years ago.

2           Q    Years ago?

3           A    Uh-huh.

4           Q    Okay.  So you're aware then, Officer

5           Daniels, that one of the issues in that *Mayfield*

6           case was that the two known prints actually had ten

7           points in common?

8           A    I would have to see the prints.  So I don't

9           know how many they had in common.

10          Q    You don't recall that part of the report?

11          A    I'm not sure, because I didn't analyze that

12          print.  So I don't know how many --

13          Q    No, I'm not asking you about analyzing the

14          print.  I'm talking about what the Federal

15          Government found.

16          A    Well, that's in the opinion of whoever was

17          looking at those two at the time.  I may look at

18          them, and I may not see ten --

19          Q    I think we're talking about different

20          things here, Officer Daniels.  I'm just asking you

21          about your knowledge of what the Federal Government

22          found went wrong in that case?

23          A    I said I don't know.

24          MS. GARDNER:  Your Honor, I'm going to object

1 to relevance.

2 THE COURT: Again, we're getting far afield  
3 from his qualifications as an expert witness.

4 BY MR. CAVISE:

5 Q Officer Daniels, can you tell us anything  
6 about error rates in your field?

7 A No. Other than I just read a Department of  
8 Justice memo that said they were so low.

9 Q Okay. You do have a professional and  
10 ethical responsibility to be current on the  
11 research on error rates; right?

12 A If it's pertinent to what I'm doing.

13 Q Aren't you a latent print examiner?

14 A Well, it could have a hundred studies on  
15 error rates. Which one would I follow: number one  
16 or the hundredth study? I mean, there are tons of  
17 studies. So, I mean, who is running the study?  
18 Who's peer review? Who's publishing the study?  
19 All of that.

20 Q Which ones have you read, Officer Daniels?

21 A I just told you the last one I read was  
22 from the Department of Justice. The study they did  
23 on error rates with latent print examiners. That's  
24 the last one that I read.

1 Q So you're aware that there's an error rate  
2 in latent print examination?

3 A I know they've made errors, so there has to  
4 be some type of error rate.

5 Q Okay. And your unit maintains no process  
6 to deal with making errors; right?

7 A I don't know what type of process -- what  
8 you mean? I mean other than --

9 MS. GARDNER: I would object. This has been  
10 asked and answered.

11 THE COURT: I don't think this has, actually.

12 MR. CAVISE: Judge, as far as his  
13 qualifications are concerned, I'm going to conclude  
14 there. And I'm going to move that this witness not  
15 be qualified to testify as an expert based on his  
16 severe shortcoming in knowledge of his field,  
17 Judge.

18 THE COURT: Anything more specific than that?  
19 Specifically, where do you think that his knowledge  
20 is lacking?

21 MR. CAVISE: I think his testimony in voir dire  
22 shows that he's not familiar with whether or not  
23 his method is reliable. He's not familiar with any  
24 of the studies on repeatability and

1 reproducibility. He personally hasn't had any  
2 training at all since 2010 outside of conferences  
3 that are only half about fingerprint analysis and  
4 obviously occur in a social like setting.

5 The CPD unit itself has no error management  
6 system whatsoever. They're not accredited.

7 There's no outside observer of anything that is not  
8 up to par within the unit.

9 The officer is not able to tell us what he  
10 knows about source attribution. Didn't seem to  
11 have ever heard of the term. Believes that even  
12 though there are problems with repeatability and  
13 reproducibility, that it doesn't mean that ACE-V is  
14 not reliable. And I think that his opinion as an  
15 expert in this case will greatly prejudice our  
16 client, as he's not qualified to offer an expert  
17 opinion based on his lack of knowledge and lack of  
18 training.

19 THE COURT: State?

20 MS. GARDNER: Judge, we would ask that you do  
21 qualify Officer Daniels as an expert. He has  
22 testified as to his experience. He has testified  
23 that he's been a latent print examiner for eight  
24 years at this point. That this is what he does.

1 That he's made thousands of comparisons and  
2 hundreds of identifications based on those  
3 comparisons.

4 In the case of *People v. Rhoden*, it says  
5 that, "The comparison of fingerprints involves the  
6 exercise of scientific knowledge which assists the  
7 jury in its determination of the facts." Based on  
8 what Mr. Daniels has said today, he has shown that  
9 he does have the scientific knowledge.

10 And that case specifically says that,  
11 "Irrespective of how the specialized knowledge was  
12 acquired, whether through education, training,  
13 experience, or a combination of each, if the  
14 witness possesses such knowledge then he or she may  
15 testify by opinion."

16 Officer Daniels has been doing this for  
17 eight years as mentioned. He's done this thousands  
18 of times, made hundreds of identifications. He has  
19 attended trainings. He has the requisite knowledge  
20 for it. A lot of the things that were mentioned by  
21 Mr. Cavise were not applicable to his general  
22 knowledge of what he stated he does, which is  
23 determine if latent prints were suitable for  
24 comparison, make comparisons with known prints, and

1 make possible identifications if he can.

2 Everything that he has said shows that he  
3 is completely qualified to do them, and we would  
4 ask that you find that he is an expert.

5 THE COURT: Anything further, Mr. Cavise?

6 MR. CAVISE: Judge, *People v. Rhoden* is -- I  
7 think is R-h-o-d-e-n. It's a case from 1981. So  
8 it's great that the State would rely on that case.  
9 as it essentially notes for the Court the race to  
10 the bottom nature of seeking admission of this  
11 testimony. It's from 1981 where --

12 In fact, in *People v. Safford*, where the  
13 Court has explicitly said that they require certain  
14 points of foundation, and they require certain  
15 things out of their examiners to be made in the  
16 testimony, it's unfortunate that it didn't  
17 specifically overrule *Rhoden*. It overruled a  
18 number of cases just like it; however, it left  
19 *Rhoden* untouched.

20 And I think the most important thing to  
21 note about it, that it's 1981, and it is the best  
22 example of the worst analyst. And if that's where  
23 we are in comparing these two, yes, I am asking  
24 this Court to take a step further and find that



1 when someone is so lacking in the knowledge of  
2 their field and does nothing but rely on  
3 experience -- and I will grant that Officer Daniels  
4 testified he did thousands of comparisons. Okay.  
5 But his testimony amounts to trust me. And I'm  
6 asking that this Court not do that today in this  
7 case, and instead find that he's not qualified to  
8 offer an expert opinion.

9 THE COURT: Thank you.

10 A witness may testify as an expert if he is  
11 qualified to do so because of a result of study,  
12 practice, education, experience, or observation.  
13 He possesses knowledge about a subject beyond of  
14 that an ordinary layperson, and his testimony will  
15 therefore aid the fact finder. And that's *Snelson*  
16 *v. Kamm*, S-n-e-l-s-o-n, versus, K-a-m-m, 204 Ill.  
17 2nd 1, 2003.

18 In this particular case, Mr. Daniels has  
19 testified that he has gone through specific  
20 training, both through CPD and from FBI people.  
21 That he has done -- in terms of experience --  
22 thousands of examinations. That he has observed  
23 what has obviously gone on in his own unit. He  
24 obviously possesses knowledge above and beyond that

1 of an ordinary layperson, and his testimony would  
2 aid the finder of fact.

3 As far as a number of the other arguments  
4 that Mr. Cavise makes, he keeps relying on things  
5 that are not in evidence. Mr. Daniels testified  
6 that he is unfamiliar with reproducibility and --  
7 what was the other term? Repeatability. That's  
8 not in evidence in front of me that there is even  
9 such a thing, what it is, whether it's required of  
10 a latent print examiner, as well as some of the  
11 other things that Mr. Cavise brought up that  
12 Mr. Daniels was not familiar with. And, again,  
13 those things are not in evidence. If the Defense  
14 wishes to bring in their own expert witness on  
15 these issues, it can certainly do so.

16 I believe that the Defense may have an  
17 argument as to the weight to be given to  
18 Mr. Daniels' testimony. Certainly, they can argue  
19 that his unfamiliarity with more current treatises  
20 or studies, the fact that he has gone to -- if they  
21 believe it -- an insufficient number of continuing  
22 education conferences or training sessions.

23 And may I note that attorneys frequently  
24 don't go to more than one continuing legal

1 education seminar per year. I know that I don't go  
2 to, probably, more than one or two a year. I don't  
3 consider myself to be unknowledgeable in my area of  
4 expertise because of that. I think that this is  
5 sufficient to qualify him as an expert witness.  
6 The Defense can argue as to the weight of  
7 credibility to be given to his expert opinion once  
8 he gives it.

9 So your motion is denied. Mr. Daniels will  
10 be qualified as an expert witness in the area of  
11 latent print testimony.

12 You may proceed.

13 MS. GARDNER: Thank you, Judge.

14 THE COURT: And let me just say that a lot of  
15 what Mr. Cavise just went through really had  
16 nothing to do with his qualifications. It really  
17 went towards weight.

18 REDIRECT EXAMINATION

19 BY MS. GARDNER:

20 Q Officer Daniels, previously you have  
21 testified as to exactly what steps you take in  
22 making a comparison. Do you follow that procedure  
23 for all comparisons that you do?

24 A Yes, if they go to a conclusion.

1       Q   You also mentioned the three levels of  
2       detail, earlier, of a fingerprint and of an  
3       impression. Do you consider all of those levels  
4       when you're making a comparison?

5       A   If they're all present. You can't make an  
6       identification off a first level detail. You have  
7       to have, at least, second level detail. And third  
8       level detail may or may not be present, depends on  
9       the quality of the impression that was left.

10       Q   And are you able to make an identification  
11       or reach an opinion based on the first two levels?

12       A   Yes, to a reasonable degree of scientific  
13       certainty, I can.

14       Q   Now, are there any factors that affect the  
15       quality of a latent print that would be found at a  
16       crime scene or left on an object? Are there  
17       factors that affect the quality of it?

18       A   I mean, is the object smooth? Is it clean?  
19       Is it porous? Is it not porous? Is it round? Was  
20       it something -- the object -- like a window that  
21       was pushed? All of those things can create  
22       smudging, smearing, pressure, widening of the  
23       ridges giving all types of variants of appearances  
24       when you touch an object.

1 Q And can those factors cause distortions in  
2 the latent print that's left on the object?

3 A Yes.

4 Q Can the same be said for an inked  
5 fingerprint? Are there factors that can lead to  
6 distortion of that?

7 A Yes. If it's taken on the scanner, if the  
8 glass isn't clean, if the person taking the print  
9 -- too little pressure, too much pressure when  
10 they're rolling the fingers. So each and every  
11 print has its own variants, whether it's known or  
12 unknown.

13 Q If you receive a print and any of these  
14 factors exist on it that make it distorted or not  
15 appropriate, are you able to detect those  
16 distortions?

17 A When I'm looking at them I can see  
18 smearing, and smudging, and widening of the ridges.  
19 I can see that through the magnifying glass, or on  
20 the screen if it's a digital photo, yes.

21 Q And if you do see smearing, or smudging, or  
22 too much pressure, or anything of that sort, are  
23 you able to use that print?

24 A It depends. Every print is different.

1 Some prints you can use because a lot of them have  
2 some type of pressure distortion, smudging and  
3 smearing. Some have too much smudging and  
4 smearing, and they're not able to be compared or  
5 identified to another print because the distortion  
6 is too much, and the quality of the print is so  
7 poor, and you don't have a high enough quality of  
8 ridge detail. So you wouldn't be able -- that  
9 print would not be suitable for comparison.

10 Q Is it fair to say even if there is some  
11 smudging or smearing of a print that if there is a  
12 portion of that print that you do find that you can  
13 use, you can still use that print?

14 A Yes.

15 Q Okay. Is there a magic number of  
16 similarities that you have to find to make an  
17 identification when you are comparing a known print  
18 and a latent print?

19 A No.

20 Q Is there a minimum number?

21 A No.

22 Q Is there a maximum number?

23 A No.

24 Q So what is the standard that you look for?

1           A    A sufficient quantity and quality of ridge  
2           details.  Meaning, the higher the quality of the  
3           print, the lower the quantity of details I need to  
4           make an identification and vice versa.  If I have a  
5           high quantity of ridge detail, then the quality of  
6           the print doesn't have to be as good.  So it's,  
7           kind of, a sliding scale, and each print stands on  
8           its own.

9           Q    Thank you.  Now, are you familiar with the  
10          AFIS system?

11          A    Yes.

12          Q    Can you describe what the AFIS system --  
13          briefly describe what it is.

14          A    It's basically a software program in which  
15          you input latent impressions.  Known impressions  
16          can be put into it to.  And what you put in, it  
17          extracts.  It makes, like, a little map of the  
18          ridge detail that you put in, and it searches it  
19          against a database full of known prints.  And you  
20          ask for a certain amount of candidates, and it  
21          scores each fingerprint or palm print and puts it  
22          in order, and it gives you that candidate list.

23          Q    Now, it gives you a candidate list.  Does  
24          AFIS itself -- the database itself -- make

1 identifications or any decisions as to identity?

2 A No, it does not.

3 Q Who makes those identifications?

4 A The examiner.

5 Q And when AFIS gives you that list, do you  
6 then consider the individuals that show up on that  
7 list when you are making your own comparisons?

8 A Well, you do a side-by-side comparison --  
9 in our case, on the screen -- to see if any of the  
10 known prints have enough detail close enough to the  
11 latent impression that you put in that you should  
12 pull a card from the database and do a further side  
13 by side comparison.

14 Q Okay. I'm going to direct your attention,  
15 specifically, to [REDACTED] Were you asked  
16 to make a comparison, if possible, for a latent  
17 print on that day?

18 A Yes.

19 Q And in order to make that comparison, did  
20 you receive inventory No. [REDACTED]?

21 A I would have to see the inventory number.  
22 I wouldn't know the inventory number off --

23 THE COURT: Do you stipulate that that's the  
24 correct inventory number?



1 MR. CAVISE: Can you read that again, Maha?

2 MS. GARDNER: Sure. [REDACTED]

3 MR. CAVISE: We'll stipulate to that, Judge.

4 MS. GARDNER: Thank you.

5 BY MS. GARDNER:

6 Q When you received that inventory, where did  
7 you receive it from?

8 A It would have been in the locked room of  
9 Chicago Police headquarters on the third floor in  
10 my unit.

11 Q I'm showing you what I've marked as  
12 People's Exhibit No. 2 for identification purposes.  
13 Is that the inventory that you received on that day  
14 to make the comparison?

15 A Yes.

16 Q And what, specifically, was inside the  
17 envelope, Officer Daniels?

18 A Three fingerprint lifts labeled A, B, and  
19 C.

20 Q And those markings that are on those lifts  
21 in the red and blue marker, are those markings made  
22 by you?

23 A Yes.

24 Q Now, are those prints in the same or

1 substantially the same condition as they were when  
2 you received them on [REDACTED]

3 A Yes, other than my markings, yes.

4 Q Did you then upon receiving these lifts,  
5 were you able to -- were you provided information  
6 as to where those lifts were taken from?

7 A By looking at the crime scene processing  
8 report. That's where I would know where they came  
9 from.

10 Q Is your memory exhausted as to where the  
11 lifts were taken from?

12 A Yes.

13 MS. GARDNER: Your Honor, permission to  
14 approach the witness?

15 THE COURT: Sure.

16 MS. GARDNER: Thank you.

17 BY MS. GARDNER:

18 Q I'm showing you what I've marked as  
19 People's Exhibit No. 4 for identification purposes.  
20 Do you recognize what that is?

21 (People's Exhibit No. 4 was marked for  
22 identification.)

23 A Yes.

24 Q What is that?

1           A    It's the evidence technician's crime scene  
2   processing report for [REDACTED], [REDACTED].

3           Q    Will you review that and once your memory  
4   is refreshed, will you turn it over and look up at  
5   me. Is your memory refreshed?

6           A    Yes.

7           Q    Do you know where those lifts were lifted  
8   from?

9           A    Yes. The address of [REDACTED]  
10   All three were labeled as being lifted from a  
11   [REDACTED].

12          Q    Now, when you received those prints, what  
13   is the first thing that you did with those prints?

14          A    When I received the envelope, I opened the  
15   envelope, and then there's elimination prints. I  
16   analyzed the fingerprint lifts to see if there were  
17   latent impressions on there, and if they're  
18   suitable to be compared. If I find them suitable  
19   for comparison, then I'll look to see if there are  
20   any elimination prints. And I would compare the  
21   latent impression to the elimination prints that  
22   were submitted.

23          Q    And of those three lifts that you received,  
24   and you said they were labeled A, B, and C; did you

1 find any of them suitable for comparison?

2 A Lifts A and B were suitable for comparison.

3 Q And once --

4 THE COURT: A and B did you say?

5 THE WITNESS: Yes, sir.

6 BY MS. GARDNER:

7 Q Once you determined that both lifts A and B  
8 were suitable for comparison, did you then compare  
9 those latent prints with the elimination?

10 A On lift A, because A was a fingerprint  
11 latent impression. And I believe lift B was a  
12 palm, and I didn't have any palm elimination  
13 prints. So I compared the fingerprint from lift A  
14 to the elimination standards that were submitted.

15 Q And is that because elimination standards  
16 were of fingers and not of a palm?

17 A Correct.

18 Q And when you -- and, specifically, those  
19 elimination prints were for the victims on the  
20 case, [REDACTED] and [REDACTED]

21 A I'm not 100 percent sure --

22 Q Okay.

23 A -- if they were the victims or not. I  
24 would have to look and see.

1 Q Regardless, when you compared lift A to the  
2 elimination prints, were you able to make an  
3 identification?

4 A No, I was not.

5 Q When you were not able to make an  
6 identification with the elimination prints, what  
7 did you do next?

8 A I took lift A into the AFIS room. And then  
9 I photographed the latent impression, which was on  
10 lift A, and I submitted it to AFIS for a candidate  
11 search.

12 Q And what happened when you did that?

13 A I got a list of ten candidates on the  
14 screen. Candidate number one is shown, the known  
15 print, side by side with the latent impression. So  
16 I did a quick on-screen comparison to see if there  
17 was enough ridge detail in agreement between the  
18 two prints. And once I decided it was enough for  
19 further comparison, I then printed -- when you get  
20 the candidate list, you get what is called an IR  
21 number. So I printed one of the cards from the IR  
22 number, so I could go back to my desk and do a side  
23 by side comparison of the latent impression and the  
24 impression from the unknown.

1 Q So just to be clear, first, you compared  
2 what came up on the screen with your latent print.

3 And after you determined that there were --

4 A Similarities.

5 Q -- similarities, then did you print it out  
6 and do a side by side comparison of the two?

7 A Yes.

8 Q And when you did that side by side  
9 comparison, what were the results?

10 A I found that there were enough ridge  
11 details in agreement between the latent impression  
12 on lift A and a fingerprint card bearing the name  
13 [REDACTED] at that time. Well, both  
14 impressions came from the same person, which was  
15 the left thumb. And so that's the identification  
16 that I made.

17 Q I'm sorry. Can you repeat that? Both were  
18 from where?

19 A The left thumb, I believe.

20 Q The left thumb?

21 A Uh-huh.

22 Q Can you explain the steps you took when you  
23 compared the latent print to that fingerprint card  
24 of [REDACTED]

1           A   Well, I would have taken the lift and --  
2           well, I've already analyzed -- so if it's white  
3           powder, I put it on top of a black background so  
4           you can see the powder. And then I would take  
5           whatever card I used, and I would place a five time  
6           magnifier over whichever pattern I've determined.  
7           In this case, it probably was the left loop. So  
8           most of those come from the left hand. So I would  
9           usually start at the left, which means I place a  
10          five time magnifier over the lift letter A.

11                 I place a five time magnifier, usually  
12          starting at the first left loop I found, which in  
13          this case probably was the left thumb. And five  
14          time magnifiers, of course, make things five times  
15          larger to the naked eye, for anybody who doesn't  
16          know. I find a focal point in the latent  
17          impression, whether it's a ridge ending  
18          bifurcation. Then I go to the corresponding area  
19          of the known print, and I look for that same ridge  
20          detail to get me started. And from there, I find  
21          my next ridge -- second level ridge detail -- in  
22          the latent impression.

23                 And if I count over one or two or three in  
24          the corresponding area of the known print, I should

1 be able to count over the same amount of time and  
2 the same relative position and find that same ridge  
3 detail, the same type direction. And I continued  
4 this process until I found a sufficient quantity  
5 and quality of ridge details corresponding in both  
6 prints where I can come to a conclusion they came  
7 from the same source, different sources, or it's  
8 not enough information in either of the prints to  
9 come to a conclusion either way. Whether to  
10 identify or exclude.

11 Q Now, in this specific instance where you  
12 were comparing the latent print from the inventory  
13 number mentioned to the fingerprint card of [REDACTED]  
14 [REDACTED] did you find that there was  
15 sufficient quality and quantity of similarities for  
16 you to reach a conclusion?

17 A Yes, I did.

18 Q And what was that conclusion that you  
19 reached?

20 A That both impressions came from the same  
21 person to a reasonable degree of scientific  
22 certainty.

23 MR. CAVISE: Judge, at this point I'm going to  
24 object because this opinion is lacking foundation.



1 I did supply to the State the authoritative case on  
2 the issue. It's *People v. Safford*. There has been  
3 no testimony about specific points using this  
4 print, but just that he went through his process.  
5 He made an identification. I'd be happy to  
6 provide, of course, a copy of this to the Court.

7 THE COURT: What was the point of giving it to  
8 the State and not giving it to me?

9 MR. CAVISE: Judge, I couldn't have anticipated  
10 there wouldn't be foundation laid for the opinion.

11 THE COURT: And you're talking about -- this  
12 sounds to me like a question for cross-examination,  
13 but if you have a case that suggests that they  
14 can't bring it up in this way, I'd be happy to read  
15 the case.

16 (Brief pause.)

17 THE COURT: Could you point me to a specific  
18 section?

19 MR. CAVISE: Judge, if you look at -- I think  
20 it's page 11 of the printout. I think it's page  
21 228 of the Illinois Appellate Reporter. Sentence  
22 that starts with the word "critical." It's about  
23 halfway down the page, Judge.

24 THE COURT: Which column?

1 MR. CAVISE: On the right column, page 11.

2 It's after page 228 of the report.

3 THE COURT: In note 9?

4 MR. CAVISE: In note 9, yes. Towards the  
5 bottom of that first paragraph.

6 (Brief pause.)

7 THE COURT: So your argument is that as a  
8 matter of law this is insufficient foundation for  
9 his opinion?

10 MR. CAVISE: Yeah. And, Judge, I would like to  
11 also object as to foundation of the known print in  
12 AFIS. This analyst has already testified that he  
13 compared it to a print of [REDACTED]  
14 There's no foundation whatsoever for the Court to  
15 know that the print he looked at was [REDACTED]  
16 [REDACTED].

17 THE COURT: Actually, I believe the State laid  
18 the foundation that he compared the actual lift to  
19 the -- actually, I'm not sure you did.

20 MS. GARDNER: Well, he testified that he  
21 received a list, and there was --

22 THE COURT: But what I didn't get was that the  
23 print from your -- the foundation that he compared  
24 it to the print that was taken by

1 your investigator.

2 MS. GARDNER: We haven't gotten there yet.

3 THE COURT: Oh, we haven't gotten there yet.

4 MS. MILLER: But he's drawn a conclusion that  
5 it is [REDACTED]. We have no foundation  
6 that the print that he compared from the AFIS pull  
7 is [REDACTED] print.

8 THE COURT: No. Actually, he didn't say it was  
9 [REDACTED]. He said that the two were  
10 the same.

11 MS. MILLER: No, he said --

12 THE COURT: He said the name on the print was  
13 [REDACTED], but he did not prove that  
14 that was this person. So you're premature on that  
15 one.

16 What about their argument about the  
17 foundation for the --

18 MS. GARDNER: Judge, what this case says -- and  
19 it says, you know -- where they led you to note 9,  
20 right above that. Our problem with the expert  
21 testimony here is that the examiner claimed to base  
22 his opinion upon facts personally known to him but  
23 was unable to testify to those facts.

24 Here Officer Daniels has described what he

1 did. I had him go into detail as to what he did in  
2 terms of side by side comparison, and he went into  
3 great detail about what he looked at. It was a  
4 powder lift, so he set it against a black surface,  
5 and he compared the two.

6 In this one, I believe the issue in this  
7 case -- and I cannot, unfortunately, locate my own  
8 copy of it. The issue was that the expert did not  
9 testify at all as to his procedure and process. He  
10 just said that he made a comparison, and he reached  
11 a certain result. They're directing you,  
12 specifically, to how many points of comparison  
13 there were. I don't believe this case is asking  
14 for a magical number of points of comparison.

15 What Officer Daniels just testified to is  
16 that there is no magical number for points of  
17 comparison, and that as long as he determines there  
18 is a sufficient quantity and quality, that he can  
19 make the identification. With respect to this  
20 specific -- I can ask him if there were a specific  
21 number of points of comparisons that he recalls,  
22 but as long as he says that he reached a sufficient  
23 amount where he could make an identification to a  
24 reasonable degree of scientific certainty, that is

1        what he did.

2            THE COURT: All right. This is what I'm going  
3        to say for right now. A, I am not going to require  
4        the State to give this case a specific number of  
5        points of comparison. I do note for the record  
6        that there has been no testimony at this point as

7        to what matched on the fingerprints. That he  
8        compared the two side by side. He simply said that  
9        they were the same. Whether that's sufficient for  
10       foundation or not is questionable.

11           I'm going to leave that open until  
12       cross-examination is complete. I may or may not  
13       allow this testimony to stand after that point. So  
14       your objection is noted for the record. I'm going  
15       to withhold ruling on that.

16           You may continue your questioning.

17       BY MS. GARDNER:

18           Q    Officer Daniels, when you received the list  
19       of fingerprints from AFIS, does it indicate who the  
20       fingerprints belong to?

21           A    It gives you an IR number.

22           Q    Okay. And you said that the first one that  
23       came up on that list, you did a side by side  
24       comparison of?

1 A Yes.

2 Q And when you received that IR number, did  
3 you identify who that IR number belongs to?

4 A I printed out a card, and it has  
5 identifiers on there. The name on the card was

6 [REDACTED]

7 Q And you testified to that previously. That  
8 based on the IR number, you printed out the card  
9 and received a card for [REDACTED] [REDACTED]?

10 A Yes, with the name --

11 MS. MILLER: Objection. Foundation that it is  
12 [REDACTED] [REDACTED]. Whether it's labeled  
13 [REDACTED] [REDACTED] is different than it actually  
14 being [REDACTED] [REDACTED]. He's flip-flopping  
15 back and forth.

16 MS. GARDNER: Judge, again, this is the  
17 testimony regarding what he got from AFIS.

18 THE COURT: I understand that what he's saying  
19 is the name on that printout was [REDACTED]  
20 [REDACTED]. He is not testifying that that, in  
21 fact, is [REDACTED] [REDACTED] -- this person's --  
22 fingerprints. Your objection is overruled.

23 BY MS. GARDNER:

24 Q Now, when you did that side by side

1 comparison of the fingerprint card with the name  
2 [REDACTED] and the latent print that you  
3 received from Inventory No. [REDACTED], you discussed  
4 what you went about to do to make that comparison.  
5 Can you refer to details as to what types of  
6 similarities you found between the two?

7 A I probably would have to go out and get my  
8 AFIS sheet out of the things where I have the  
9 similarities already dotted out. Because I  
10 couldn't do it from memory -- I know, they both  
11 left slant loops. I know there was a bifurcation  
12 to the left of the core. But going all the way  
13 throughout them without looking at them, I wouldn't  
14 be able to do that from memory.

15 Q And do you have that with you?

16 A Yeah, I have the AFIS sheet out there.

17 Q Do you have those notes with you of the  
18 comparisons that you made with the --

19 A I have the AFIS screen with two prints that  
20 I used with the similarities dotted out that I have  
21 with me.

22 MS. GARDNER: Your Honor, would you permit him  
23 to use his documents when testifying as to those  
24 similarities?

1 THE COURT: Do you have any objection?

2 MR. CAVISE: Judge, as long as what we're about  
3 to see has been tendered, no.

4 MS. GARDNER: And it has.

5 THE COURT: Okay.

6 BY MS. GARDNER:

7 Q Do you have your documents with you,  
8 Mr. Daniels?

9 A They're out in the hallway.

10 MS. GARDNER: Your Honor, may he step outside  
11 to grab those materials?

12 THE COURT: Yes. You're not to talk to anybody  
13 while you're outside.

14 THE WITNESS: Yes, sir.

15 MS. MILLER: Can we take five minutes for a  
16 bathroom break?

17 THE COURT: Pardon?

18 MS. MILLER: Can we take a bathroom break while  
19 he's going to get his notes?

20 THE COURT: While the witness is on the stand,  
21 I'd rather not.

22 (Brief pause.)

23 THE COURT: Let the record reflect Mr. Daniels  
24 stepped out of the courtroom, returned moments



1 later with a bag, and is back on the witness stand.

2 MS. GARDNER: Your Honor, before I continue,  
3 may I just ask for clarification. When you stated  
4 that we had not laid the proper foundation as to --

5 THE COURT: I did not state that.

6 MS. GARDNER: When you stated that there was no  
7 testimony as to the identification between the  
8 latent print and the card for [REDACTED]  
9 [REDACTED], were you specifically referring to  
10 how that print -- how he associated the card with  
11 Michael Hickingbottom? Or are you speaking of the  
12 specifics of the latent print and the fingerprint  
13 on the card?

14 THE COURT: I'm talking about the specifics  
15 between the latent print and the card.

16 BY MS. GARDNER:

17 Q Officer Daniels, have you reviewed the  
18 notes that you needed to refer to?

19 A Yes.

20 Q Okay. And may I see which note you are  
21 referring to to show it to the Defense?

22 MS. GARDNER: Your Honor, approaching Counsel.

23 (Brief pause.)

24

1 BY MS. GARDNER:

2 Q Mr. Daniels, I'm tendering back to you the  
3 document that you were referring to, and I've  
4 marked it as People's Exhibit 5 for identification  
5 purposes. What is that document that you are  
6 looking at?

7 (People's Exhibit No. 5 was marked for  
8 identification.)

9 A This is a screen shot of the AFIS search  
10 with the ten candidates after I ran lift A from  
11 this case.

12 Q And, specifically, is it a screen shot of  
13 the print that came up with the IR number, which  
14 you later found to be belonging to [REDACTED]

15 [REDACTED]

16 A Yes.

17 MS. MILLER: Judge, I would object at this  
18 point to relevance without any foundation laid that  
19 the photo that he compared the known to the latent  
20 without laying any foundation that the known is  
21 even anyone related to this case. At this point  
22 his testimony as to doing any comparisons and any  
23 points of comparison is irrelevant. They have to  
24 establish a foundation.

1 THE COURT: I'm not understanding what you're  
2 saying.

3 MS. MILLER: I sensed that earlier when we made  
4 this objection. If he were to start testifying as  
5 to just comparing two prints, and we haven't  
6 established that at least one of those prints can  
7 be foundationally laid and connected to my client,  
8 that's not relevant.

9 THE COURT: Sure it is.

10 MS. MILLER: They need to establish a  
11 foundation.

12 THE COURT: Ms. Miller, you're completely  
13 wrong. It's relevant because a latent print was  
14 lifted from the scene and is being compared to  
15 another print. That is obviously relevant to this  
16 case. Whether they can tie that to your client or  
17 not is something they can do later. All right.  
18 Your objection is overruled. He can testify.

19 MS. MILLER: Just as long as it's not being  
20 offered substantively that this print is  
21 ~~the same as~~ s.

22 THE COURT: I've said that about five times,  
23 Ms. Miller. How many times do I have to repeat  
24 that?

1 MS. MILLER: Not the latent. I'm not talking  
2 about --

3 THE COURT: Ms. Miller, stop.

4 MS. MILLER: All right. Just making sure it  
5 was clear.

6 THE COURT: Proceed, State.

7 MS. GARDNER: Thank you, Judge.

8 BY MS. GARDNER:

9 Q Now, you were just testifying, Officer  
10 Daniels, that what you have before you is the print  
11 that was associated with the name [REDACTED]  
12 [REDACTED] and the latent print that was lifted;  
13 correct?

14 A Yes.

15 Q And based on that, did you do a side by  
16 side comparison of those two prints: the latent  
17 print and the known print?

18 A Yes, I did.

19 Q And based on that were you able to find a  
20 sufficient amount of -- I'm sorry.

21 Were you able to find similarities of a  
22 sufficient quantity and of sufficient quality for  
23 you to reach a conclusion?

24 A Yes.

1 Q And can you describe what those  
2 similarities were?

3 A Well, to the left of the core -- and when  
4 you have a fingerprint, the core is what is  
5 considered the middle. Usually, if you can imagine  
6 a loop of a fingerprint, right in the center of  
7 that print is what you would call the core. To the  
8 left of the core --

9 THE COURT: Counsel, do you have an objection  
10 to me going over and looking at what he's pointing  
11 at since he's sitting in a witness stand with the  
12 photo -- or a print. And I can't see it from here.  
13 I assume you have a copy. You can come over and  
14 watch also.

15 MR. CAVISE: I do. That'd be fine.

16 THE COURT: Thank you. That would be a whole  
17 lot more constructive than trying to understand  
18 what he's saying.

19 THE WITNESS: So what you have is this is the  
20 latent impression that was entered into AFIS, and  
21 this is the known impression that came up under IR  
22 number [REDACTED]. What I did was I marked  
23 similarities using the red marker between the  
24 latent impression and the known impression.

1           The middle of the print right here is what  
2   will be referred to as the core on both prints.  
3   The first ridge detail that I marked, which would  
4   be second level detail, what we would call a  
5   downward bifurcation. Meaning, you have a ridge  
6   that's running mostly down, and it splits into two.

7           THE COURT: I'm sorry. I'm going to interrupt  
8   for just one second.

9           THE WITNESS: Yes, sir.

10          THE COURT: This print on the right -- for the  
11   record, I'm looking at a computer printout with  
12   copies of two prints. The print on the right is  
13   exactly what?

14          THE WITNESS: That's the known print from the  
15   database.

16          THE COURT: That's the known print from the  
17   database. Not the one from the Cook County  
18   Investigator's card.

19          THE WITNESS: Right. Not the card.

20          THE COURT: This is from AFIS?

21          THE WITNESS: Correct.

22          THE COURT: The one on the left is the latent  
23   print from the laptop.

24          THE WITNESS: Correct.

1 THE COURT: Thank you. Okay. Go ahead.

2 THE WITNESS: The first one I had marked as  
3 what they would call a downward bifurcation.  
4 Meaning, you have a ridge that's running almost  
5 straight down, and it meets and becomes two ridges.  
6 And that's there on the latent impression, and  
7 there on the known impression. You move over one,  
8 you have another ridge that turns into two ridges  
9 running down. You move over one to the latent  
10 impression, there it is again.

11 If I go up one, I have a ridge that's  
12 running up, and it becomes two ridges running on  
13 your right side. There it is when I go up one on  
14 the latent impression. Then if I go up one more, I  
15 have another ridge that's running towards your left  
16 and ends where you can see right there. And I  
17 continue on in that same process from ridge detail  
18 to ridge detail until I find a sufficient quantity  
19 and quality of ridge details in both of them to  
20 come to a conclusion that both prints come from the  
21 same source.

22 THE COURT: Do you have any further questions  
23 on that, State?

24 MS. GARDNER: Not specifically on that.

1 THE COURT: All right. Obviously, the Defense  
2 will have the opportunity to cross-examine on that.

3 BY MS. GARDNER:

4 Q Officer Daniels, that known print that you  
5 got from the AFIS database, what was the IR number  
6 that was associated with it?

7 A [REDACTED]

8 Q And who does that IR number belong to?

9 MS. MILLER: Objection. Foundation.

10 THE COURT: Lay a foundation for how he knows  
11 that.

12 BY MS. GARDNER:

13 Q Once you receive an IR number, are you able  
14 to determine who that IR number belongs to?

15 A I can print out a card with identifiers.

16 Q And, specifically, what do you do?

17 A The name identifier to this IR number was

18 [REDACTED]

19 Q So, specifically, when you print out a card  
20 with the identifiers, do you type in that  
21 IR number?

22 A To get the card, I have to type in the IR  
23 number to print a card from that particular IR  
24 number.



1 Q And what exactly is that card?

2 A In this case, the Chicago Police  
3 Department's database.

4 Q And does that card indicate a name  
5 associated with the IR number?

6 A The name on the card was [REDACTED]

7 [REDACTED] in this case.

8 Q And after you made the analysis that you  
9 just described to the Court, did you reach a  
10 conclusion?

11 A Yes.

12 Q And what was that conclusion?

13 A That the latent impression from lift A was  
14 identified to a left thumb print on the known card  
15 with the name [REDACTED]

16 Q Now, after you did this analysis, did you  
17 submit your work to the verification process?

18 A I gave it to another examiner, yes.

19 Q Did another examiner verify --

20 MR. CAVISE: Objection. This is hearsay,  
21 Judge.

22 THE COURT: Sustained.

23 BY MS. GARDNER:

24 Q Was there any indication that you had to

1 redo this analysis?

2 A No.

3 Q Now, I will, specifically, direct your  
4 attention to on or about [REDACTED] Were you  
5 asked to do a confirmatory analysis by an Assistant  
6 State's Attorney?

7 A Yes.

8 Q And when you were asked to do that  
9 confirmatory comparison, did you receive anything  
10 in order to do that confirmatory analysis?

11 A Yes.

12 Q That comparison?

13 A Yes.

14 Q What did you receive?

15 A I received the fingerprint card from the  
16 State's Attorney's Office with the name [REDACTED]  
17 [REDACTED] The prints were taken by William  
18 Kovacs.

19 Q And did you receive that card on or about  
20 the date of [REDACTED]

21 A Yes.

22 Q And how did you receive that card?

23 A Through interoffice mail.

24 Q Okay.

1 MS. GARDNER: Your Honor, permission to  
2 approach.

3 THE COURT: Sure.

4 BY MS. GARDNER:

5 Q I'm showing you what I've marked as  
6 People's Exhibit No. 3.

7 A Yes.

8 Q Can you explain to the Court what that is?

9 A This is the fingerprint card I received  
10 from the Cook County State's Attorney taken by  
11 William Kovacs with the name [REDACTED].

12 Q And is that fingerprint card in the same or  
13 substantially the same condition as it was when you  
14 received it?

15 A Yes, other than the markings I put on it,  
16 the verifiers.

17 Q The markings that are next to one of the  
18 prints, were those markings put on it by you after  
19 you received the card?

20 A After I did my comparison, yes.

21 Q And is there an IR number listed on that  
22 fingerprint card?

23 A Yes, there is.

24 Q And what is that IR number?

1           A   ██████████.

2           Q   Now, when you received this fingerprint  
3   card, did you compare it to the lifts that you  
4   received under Inventory No. ██████████.

5           A   Yes.

6           Q   And are those the same lifts that you just  
7   previously viewed, and that you previously  
8   testified that you compared with the results of an  
9   AFIS search?

10          A   Yes.

11          Q   When you received those lists, did you,  
12   again, determine whether any of those lifts were  
13   appropriate for comparison?

14          A   They've already been analyzed.

15          Q   They had already been analyzed. And was it  
16   the same, that A and B --

17          A   Yes.

18          Q   -- were suitable for comparison?

19          A   Yes.

20          Q   When you received the fingerprint card from  
21   Bill Kovacs, did you do a similar analysis to see  
22   if any of the fingerprints were suitable for  
23   comparison on the fingerprint card?

24          A   Not a re-analysis. I just do a comparison

1 of the latent impression to the fingerprint card  
2 that I received.

3 Q I guess to clarify. When you received this  
4 card, did you find any of the fingerprints  
5 appropriate for you to compare with the latent  
6 print?

7 A Yes, on Bill Kovacs' card, yes.

8 Q And do you recall which one that was?

9 A Well, I only had to look at one, that was  
10 the left thumb. But they all seemed to be  
11 suitable.

12 Q Did you look at the left thumb because that  
13 is what lift A was of, a left thumb?

14 A From the original conclusion, yes.

15 Q Okay. And is that what you marked on  
16 People's Exhibit No. 3 to identify which one you  
17 used for comparison?

18 A Yes, which I compared and made an  
19 identification from.

20 Q If there was anything with these prints  
21 such as smudging, or overlays of other  
22 fingerprints, or anything of that nature, would you  
23 have been able to use this fingerprint card?

24 A Depends on how much distortion, but if

1       there was too much distortion, then I would have  
2       just notified the State to have him printed again.

3           Q    Did you do that in this case?

4           A    No.

5           Q    Okay. Now when you had received this  
6       fingerprint card from [REDACTED] with  
7       the IR number that you stated of [REDACTED], did you  
8       then do a comparison with lift A from Inventory No.  
9       [REDACTED]?

10          A    Yes.

11          MR. CAVISE: I'm going to object as to  
12       foundation. There has been nothing tendered to  
13       Defense about a comparison here -- a second  
14       comparison. We have a one page print report where  
15       he just repeats his conclusion.

16          THE COURT: And so what is your argument?

17          MR. CAVISE: The objection is first as to  
18       foundation, unless we're going to see points again.  
19       And then there's a discovery violation as I  
20       subpoenaed multiple times the full case file  
21       including points of comparison. If there's a  
22       second comparison being done, I have nothing.

23          THE COURT: You have no report of a second  
24       comparison?

1 MR. CAVISE: I have a one page print report  
2 that says the same thing the first one said, which  
3 is it's identified.

4 THE COURT: And how is that legally inadequate?

5 MR. CAVISE: There's no foundation.

6 THE COURT: You're suggesting the report

7 requires them to attach copies? Did you have a  
8 copy of the card from the ASA?

9 MR. CAVISE: No. I'm saying the *Safford* case  
10 requires that an analyst lay a foundation in the  
11 form of specific points of comparison.

12 THE COURT: Your argument is discovery  
13 violation. How is this a discovery violation? Did  
14 you have a report saying that he did make a  
15 comparison, and that he found an identifying on  
16 this second comparison?

17 MR. CAVISE: Yes.

18 THE COURT: Then how is this a discovery  
19 violation?

20 MR. CAVISE: If we are about to hear testimony  
21 of a comparison, they would need to lay a  
22 foundation including the points that were used.  
23 Then there would also be a discovery violation.

24 THE COURT: You're saying that the report is

1 required to lay out all of the detail by which he  
2 came to that conclusion?

3 MR. CAVISE: No. I'm saying in terms of  
4 foundation in *Safford*, in terms of discovery as to  
5 Illinois Supreme Court Rule 412.

6 THE COURT: I'm aware of what Supreme Court  
7 rules are. I don't understand what you're saying  
8 the discovery violation is. You've got a report  
9 saying that there was a comparison done, and it was  
10 a match; correct?

11 MR. CAVISE: Yes.

12 THE COURT: Your objection is overruled.

13 BY MS. GARDNER:

14 Q Now, when you made this comparison between  
15 the fingerprint card that you received from  
16 Mr. Kovacs for ~~XXXXXXXXXX~~, as well as  
17 the lift A from the inventory, was AFIS used at all  
18 at this point?

19 A No.

20 Q Did you do a side by side comparison of the  
21 fingerprint you identified on the fingerprint card  
22 with lift A?

23 A Yes.

24 Q Okay. And can you describe then the



1 comparison that you did with the fingerprint of the  
2 left thumb from the fingerprint card to lift A that  
3 you received from Inventory No. [REDACTED]?

4 A Basically, I did another side by side  
5 comparison of finding the focal point on the latent  
6 impression, finding the same focal point on the  
7 known impression from the card from the Cook County  
8 State's Attorney's Office, and going detail by  
9 detail until I find enough sufficient quantity and  
10 quality of the ridge detail to come to a  
11 conclusion.

12 Q And the process that you went through in  
13 this comparison, was it similar or the same as the  
14 process that you went through with the first  
15 comparison that you made with the AFIS print?

16 A Yes.

17 Q And once you did the side by side  
18 comparison of the left thumb with lift A from the  
19 fingerprint card, did you find that there were  
20 similarities of sufficient quantity and quality for  
21 you to reach a conclusion?

22 A Yes.

23 Q Based on your experience, training, and  
24 expertise, did you reach a conclusion to a

1 reasonable degree of scientific certainty?

2 A Yes.

3 Q And what was that conclusion?

4 A That the latent impression on lift A was  
5 identified to the left thumb on the card with the  
6 name [REDACTED] that I received from the  
7 Cook County State's Attorney's Office.

8 Q And, again, you reached that conclusion  
9 with a reasonable degree of scientific certainty?

10 A Yes.

11 Q And at any point were you asked to -- was  
12 it told to you that you needed to redo that  
13 comparison for any reason?

14 A No.

15 MS. GARDNER: Your Honor, may I just have one  
16 moment?

17 THE COURT: Sure.

18 (Brief pause.)

19 MS. GARDNER: Your Honor, I don't have any  
20 further questions.

21 THE COURT: Cross?

22 RECROSS-EXAMINATION

23 BY MR. CAVISE:

24 Q Officer Daniels, a few minutes ago when you

1 were testifying, you were looking at the AFIS  
2 screen shot printout that you provided both of the  
3 parties; right?

4 A Yes, sir.

5 Q Okay. And while you were testifying, you  
6 had the known print on the right; right?

7 A Yes, sir.

8 Q And the latent print that was inputted into  
9 AFIS on the left side; right?

10 A That is correct.

11 Q And the document also had your points of  
12 comparison; right?

13 A Some of them, yes.

14 Q Okay. Those points of comparison were in  
15 the form of red dots; right?

16 A That is correct.

17 Q However, you don't make red dots on the  
18 computer screen; right?

19 A No, I do not.

20 Q They were made on this printout; right?

21 A Yes.

22 Q Okay. I'm going to show you again what's  
23 been marked as State's No. 5, okay? This time,  
24 Officer Daniels -- I'm sorry. This is kind

1 of awkward.

2 Officer Daniels, the right side of the  
3 print had the known; right?

4 A Yes.

5 Q And this time it's covered up with a sheet  
6 of paper; right?

7 A Correct.

8 Q On the left side, you still have the points  
9 that you plotted out compared to the known; right?

10 A That is correct.

11 Q Now, when do you an analysis, you're  
12 looking for primarily Level 2 features; is that  
13 fair to say?

14 A All three features.

15 Q Okay. You can't make a comparison based on  
16 Level 1?

17 A That is correct.

18 Q And you can't make a comparison based  
19 exclusively on Level 3?

20 A You could in theory, yes, you could.

21 Q Can I just rephrase real quick.

22 In this case, did you rely on Level 2  
23 features?

24 A Yes.

1 Q Okay. And Level 2 features -- I think you  
2 described before -- can be bifurcations; right?

3 A Yes.

4 Q And they can be ridge endings; right?

5 A Yes.

6 Q Sometimes there is such a thing called

7 closure; right?

8 A Yeah.

9 Q And you can have a thing called an island?

10 A Yes.

11 Q Okay. And when you have a print that has  
12 even a minimal amount of distortion, if you're  
13 looking for points within that distortion, it can  
14 be difficult to differentiate between a bifurcation  
15 and a ridge ending, for example; right?

16 A If there's a lot of distortion.

17 Q Okay. So you're looking for parts of the  
18 print that are clearer, that's where you're looking  
19 to find points; right?

20 A I'm looking throughout the whole print. I  
21 mean, clearer, of course, it's better, but you  
22 don't always get clearer. So you have to go where  
23 you can get a good view of the ridge detail. If  
24 it's too distorted, then I can't use those points,

1 or that second level ridge detail, because it's too  
2 much distortion.

3 Q Okay.

4 A So wherever I deem the quality of the print  
5 is good enough for me to use the detail, I use  
6 those details.

7 Q And I forget if you used the term to  
8 describe the Level 1 detail. So the area where  
9 Level 1 occurs -- Level 1 is a loop, arch, or  
10 whirl; right?

11 A It's a fingerprint pattern.

12 Q Right.

13 A But if you don't have a complete pattern,  
14 all you have is the flow. Kind of like watching a  
15 river or something.

16 Q Right.

17 A You just see the flow of it. So that's  
18 Level 1 detail. You see the flow of these ridges.

19 Q And the other -- there's another feature  
20 that's called a delta; right?

21 A Yes.

22 Q And so a delta and -- I'm sorry. I forget  
23 what you had called the loop, arch, or whirl.

24 A The core.

1. Q The core?

2 A The middle of the print is the core.

3 Q The delta, or the core, are anchor points  
4 for your examination; isn't that right?

5 A No. My focal point is my anchor point,  
6 because you don't always get a delta.

7 Q Okay. But there's a lot of detail inside  
8 of a delta and inside of a core?

9 A There can be, yes.

10 Q Okay. So I want you to look now at the  
11 printout -- this is People's 5 -- on the left side.  
12 In this image here --

13 MR. CAVISE: Judge, I don't know if you want to  
14 come look at this while I do this.

15 THE COURT: Sure.

16 BY MR. CAVISE:

17 Q In this image, the core of that print is  
18 not clear; is that fair to say, Officer Daniels?

19 A It has distortion.

20 Q It has distortion. Okay. And to the right  
21 of your points, probably about an inch to the right  
22 of your points in this AFIS document, there's a  
23 large black area; right? About an inch -- yes.  
24 That is what you're pointing at. I don't know how

1 to describe it for the record.

2 It's about an inch to the right of your  
3 points in comparison; right?

4 THE COURT: It's a solid black area, for the  
5 record, on the latent print.

6 THE WITNESS: Could be pressure. Could be  
7 smudging.

8 BY MR. CAVISE:

9 Q Okay. And there's another black area about  
10 another inch just above that first black area. I  
11 know you're pointing. I have to say it for the  
12 record.

13 THE COURT: For the record he's pointing at  
14 another black area towards the top of the print  
15 towards the right side.

16 BY MR. CAVISE:

17 Q Okay. Let's look at the cluster of points  
18 that you have where this print goes from darker to  
19 lighter. Okay?

20 A Yes.

21 Q The bottom most print, that red dot, is  
22 that bifurcation or a ridge ending?

23 A That's a bifurcation.

24 Q The dot above that, is that a bifurcation



1 or a ridge ending?

2 A That's a bifurcation.

3 Q And the third dot above that, is that a  
4 bifurcation or a ridge ending?

5 A That's a bifurcation.

6 Q Okay. And you know that because you had  
7 the known print next to you; right?

8 A I know it because I can see it. And I can  
9 see it even clearer with my bright light and my  
10 five time magnifier. It looks much better than it  
11 does on this, because this is --

12 Q This is the printout you provided for the  
13 parties; right?

14 A Right. But this isn't --

15 Q When we asked you -- I'm sorry. I cut you  
16 off.

17 A But this isn't what I make my  
18 identification from. I do it under a bright light  
19 with a five time magnifier. So my ability to see  
20 through this distortion is not the same as you're  
21 going to get from a copy or a photo that I bring  
22 you, because the quality is not going to be as  
23 high. So there's a lot of distortion in the print,  
24 but I can't reproduce my five time magnifier and my

1 bright light to give you the same quality and look  
2 at it as I had.

3 Q Okay. We're going to do that together.

4 MR. CAVISE: Judge, I don't know if this has  
5 been done yet, but I'm going to ask that this AFIS  
6 document be admitted into evidence.

7 THE COURT: They haven't done that yet, but  
8 it's not your exhibit. Are you adopting that  
9 exhibit?

10 MR. CAVISE: Should I re-mark it, Judge? I  
11 would like to move it into evidence, yes. Of  
12 course, we do have two copies.

13 MS. GARDNER: Your Honor, we can move People's  
14 Exhibit No. 5 into evidence.

15 THE COURT: All right. That will be admitted  
16 into evidence by both sides.

17 (People's Exhibit No. 5 was admitted  
18 into evidence.)

19 THE COURT: Okay.

20 MR. CAVISE: Thanks, Judge.

21 (Brief pause.)

22 BY MR. CAVISE:

23 Q Officer Daniels, if there's too much  
24 distortion on a print, there's a term of -- or

1 I better --

2 MR. CAVISE: Do you mind if I deal with this,  
3 and then I'll continue with my questions? Sorry.

4 THE COURT: Go ahead.

5 (Brief pause.)

6 MR. CAVISE: Judge, I'm sorry. I just need a  
7 minute with this mid-80's technology.

8 THE COURT: Can you do this on the laptop  
9 without the projector?

10 MR. CAVISE: I can. I'm actually doing it on  
11 the laptop right now.

12 (Brief pause.)

13 MR. CAVISE: Judge, I'm abandoning that.

14 THE COURT: Okay.

15 BY MR. CAVISE:

16 Q When there's too much smudging and  
17 distortion on a print, there's a term of art in  
18 your field called connective ambiguity; right?

19 A Connective ambiguity?

20 Q Have you heard of that term?

21 A Not familiar with that term.

22 Q Another thing you keep in mind when you're  
23 looking at your prints, a term of art in your field  
24 called the One Dissimilarity Rule. Are you

1 familiar with that?

2 A The what?

3 Q The One Dissimilarity Rule.

4 A I'm not sure if you're talking about if

5 there's a dissimilarity that cannot be explained.

6 I never knew it had a term of One Dissimilarity

7 Rule, no.

8 Q Okay. If there is one dissimilarity that

9 can't be explained, you rule that as an exclusion;

10 is that right?

11 A Yes, if it have no explanation for it.

12 Q Okay. Now, you testified that you used

13 AFIS in this case; right, Officer Daniels?

14 A That is correct.

15 Q And previously you testified that there are

16 directives that your unit is guided by; right?

17 A Yes.

18 Q Officer Daniels, I'm going to show you what

19 I'm marking as Defense Exhibit 2.

20 MR. CAVISE: Amber, is that right?

21 THE COURT: No. 1, actually; isn't it?

22 MR. CAVISE: That's if you want two copies of

23 the AFIS printout, Judge.

24 THE COURT: I don't.

1 MR. CAVISE: Okay. This will be Minor  
2 Respondent's 1.

3 MS. MILLER: No it's 2. It's Minor Respondent  
4 2.

5 THE COURT: I'm not going to mark Minor's No. 1  
6 as the same thing that was People's No. 5.

7 MS. MILLER: I know, Judge. No. 1 was actually  
8 the FBI summary sheet.

9 THE COURT: Okay.

10 (Minor Respondent Exhibit No. 2 was  
11 marked for identification.)

12 BY MR. CAVISE:

13 Q Officer Daniels, I have just placed upon  
14 you what's marked as Minor's Exhibit No. 2; right?

15 A Yes.

16 Q And at the top of this document it reads  
17 Bureau of Administrative Services; right?

18 A Correct.

19 Q Right below that it reads Latent Print  
20 Unit?

21 A Correct.

22 Q And at the top right of the document it  
23 says [REDACTED], right?

24 A Correct.

1 Q And at the bottom right of the document it  
2 says LPE, Carrie Simon, No. 12866; right?

3 A Correct.

4 Q Supervisor/Latent Print Unit; right?

5 A Correct.

6 Q Do you recognize this document to be one of  
7 those directing memos we talked about; right?

8 A Correct.

9 Q Now, this one, as far as you can tell -- I  
10 think it's right there under subject -- this  
11 governs some things that have to do with AFIS;  
12 right?

13 A Yes.

14 Q Okay. Now, if you look towards the bottom  
15 of the page -- I believe, it's in the last  
16 paragraph -- that says that one of the factors to  
17 consider when using AFIS is time restraints; right?

18 MS. GARDNER: Your Honor, I would object to  
19 Mr. Cavise reading from a document that's not in  
20 evidence. He's marked it. He's reading off it.

21 THE COURT: Sustained. It's a hearsay  
22 document.

23 MR. CAVISE: Judge, I'm sorry. Did you say  
24 this is a hearsay document?

1 THE COURT: Yes. How is that not hearsay?

2 MR. CAVISE: It's not being offered for the  
3 truth of the identification.

4 THE COURT: That's not the only basis for  
5 hearsay, Mr. Cavise. The objection is sustained.  
6 You cannot simply admit a document or cross-examine  
7 him without at least asking him about the  
8 procedures first. If you had something different,  
9 then you can impeach him with it. But you can't  
10 simply admit that document into evidence or use it  
11 in this manner.

12 MR. CAVISE: Okay.

13 BY MR. CAVISE:

14 Q Officer Daniels, I'm going to remove this.  
15 Okay. You are -- and, Judge, stop me again if I'm  
16 using it incorrectly.

17 Officer Daniels, you do have a procedure  
18 that governs how you use AFIS; is that right?

19 A There are, maybe, some guidelines.

20 Q Right. And you are familiar with the  
21 guidelines of what you can consider when you input  
22 cases into AFIS; right?

23 A No. I determine what I put into AFIS.

24 THE COURT: I'm sorry. Could you say that

1       again. You determine what?

2           THE WITNESS: I determine what I put into AFIS.

3           THE COURT: Thank you.

4       BY MR. CAVISE:

5           Q   That's not what I'm asking you.

6           A   Okay.

7           Q   When you are looking for a candidate in  
8       AFIS --

9           A   Uh-huh.

10          Q   -- you have a memo that guides you as to  
11       how you can expand parameters, for example, in  
12       AFIS; right?

13          A   You mean search parameters?

14          Q   Yes.

15          A   Yeah, those are suggestions. But, once  
16       again, I determine the search for them.

17          Q   Okay. Are you familiar with what you  
18       called the "suggestions?" Are you familiar with  
19       these suggestions? Do you know them?

20          A   From that memo?

21          Q   From the fact that you're in the latent  
22       print unit.

23          A   What suggestions?

24          Q   The suggestions about when you can expand



1 the search parameters in AFIS. Are you familiar  
2 that those exist?

3 A I can expand on them when I choose to  
4 expand on them.

5 Q Okay. So you can expand them based on time  
6 restraints; right?

7 A Expanding them adds to your time  
8 restraints. I mean, I don't --

9 Q So if you're searching for a candidate --

10 A Yes.

11 Q -- you may want to expand your search  
12 parameters to find a possible candidate; right?

13 A I can do that, yes.

14 Q And so one of the things you can consider  
15 before you expand your search is what kind of time  
16 restraints you might have; right?

17 A I don't have time restraints.

18 Q Okay. Have you never had a time restraint  
19 on a case before?

20 A No. I have to get this right. So if it  
21 takes me a year -- there is no time restraint.  
22 Whatever I do, I get as much time as necessary to  
23 get it right. So I don't have time restraints.

24 Q Okay. And then you also don't -- you don't

1 consider at all the significance of the case?

2 A No, because a print is a print. I mean,  
3 whether it's a murder or jaywalking, I have to get  
4 it right. So what type of it is -- somebody's  
5 freedom is at stake. I have to get it right.

6 Q Okay. So when you expand search  
7 parameters, when you don't find what you're looking  
8 for, the reason why you're doing that is to cast a  
9 wider net; right?

10 A If I don't get a candidate out of my  
11 original search.

12 Q Then you can expand the parameters to cast  
13 a wider net; isn't that right?

14 A If I choose, yes.

15 MS. GARDNER: Judge, I would just object to  
16 relevance to this line of questioning, as there was  
17 no testimony that he needed to expand his search in  
18 this case.

19 THE COURT: How is this relevant?

20 MR. CAVISE: I'm sorry, Judge?

21 THE COURT: How is this relevant?

22 MR. CAVISE: There was an AFIS search in this  
23 case, and so I'm questioning the examiner about his  
24 use of AFIS.

1 THE COURT: He testified that he got the  
2 candidate on the first search. So how is this  
3 relevant to this particular case?

4 MR. CAVISE: So on voir dire I was not allowed  
5 to get into limitations of AFIS; however, on  
6 cross-examination, in order to speak towards the  
7 weight of this analyst's testimony, I would like to  
8 get into the pitfalls of AFIS and his knowledge of  
9 search expansion. But if you're ruling that it's  
10 not relevant, then I won't.

11 THE COURT: It's not relevant. Objection  
12 sustained.

13 MS. MILLER: Could I have a moment, Judge?

14 THE COURT: Sure.

15 (Brief pause.)

16 BY MR. CAVISE:

17 Q Officer Daniels, in this case there were 10  
18 candidates generated; right?

19 A Correct.

20 Q Okay. And they are generated because there  
21 are some degree of similarity between what you put  
22 in the computer and what the computer already had;  
23 right, the latent and the known?

24 A They're scored by AFIS, and, I guess, AFIS'

1 job is to give you the candidates that's closely  
2 associated to what you entered into AFIS.

3 Q Right. And in this case, in fact, of the  
4 10 candidates, the top three were star candidates;  
5 right?

6 A I don't know if they had stars. I would  
7 have to look at the list.

8 Q So you examined the first one; right?

9 A I looked at the first one.

10 Q And you declared, based on the first one,  
11 that you had something worth examining side by  
12 side?

13 A Correct.

14 Q You testified to having done it  
15 confirmatory; however, you did not take any notes  
16 during that confirmatory analysis; right?

17 A No.

18 Q You did not plot out any points whatsoever;  
19 right?

20 A No.

21 Q Okay.

22 MR. CAVISE: Judge, I believe we already moved  
23 the printout into evidence. And at this time I'm  
24 renewing my motion to strike this testimony as

1       lacking foundation.

2           THE COURT:  As to the second confirmatory  
3       comparison?

4           MR. CAVISE:  Yes.

5           THE COURT:  State?

6           MS. GARDNER:  Judge, with respect to the second  
7       statement, Officer Daniels testified as to the  
8       steps he took and how he made the comparison, what  
9       he looked at it, and concluded that there were  
10      sufficient similarities -- there were similarities  
11      of sufficient quality and sufficient quantity.

12           He did not testify to a magical number of  
13      points that he found that matched.  There is no  
14      such number.  And his testimony was sufficient, in  
15      that he explained how he reached his analysis.  
16      There is no requirement that he has to take notes.  
17      He can testify as to what he did, which is what he  
18      did do right now.

19           There are not notes from that confirmatory  
20      comparison; however, his testimony that he did this  
21      comparison, laying out the steps that he took, what  
22      he looked for, and at what he looked at and then  
23      concluding, based on his experience and his  
24      knowledge as a latent print examiner, that there

1 was a sufficient quantity -- I'm sorry --  
2 similarities of sufficient quality and sufficient  
3 quantity, he reached his conclusion.

4 And we would ask your Honor to find that is  
5 sufficient in terms of his testimony.

6 THE COURT: Mr. Cavise?

7 MR. CAVISE: Judge, I'm going to rely on *People*  
8 *v. Safford*. It's quite clear that without  
9 providing the specific points of comparison is  
10 lacking a foundation. We did get foundation for  
11 the first one based on this AFIS printout that has  
12 since been admitted into evidence. There is no  
13 foundation for the confirmatory print.

14 THE COURT: I can't say that I disagree with  
15 you; but for whatever it's worth, I'm going to  
16 allow the testimony to stand. Your objection is  
17 overruled.

18 MR. CAVISE: I have nothing further.

19 MS. MILLER: Wait.

20 THE COURT: Seriously, you have more?

21 MR. CAVISE: Just two questions.

22 BY MR. CAVISE:

23 Q Officer Daniels, there were two suitable  
24 prints in this case; right?

1 A Correct.

2 Q You only compared lift A; right?

3 A Correct.

4 Q Did not compare lift B at all?

5 A Correct.

6 Q Lift C was not suitable for comparison?

7 A Correct.

8 Q And when you got that candidate list, you

9 only looked at the first candidate?

10 A Correct.

11 MR. CAVISE: That's all.

12 THE COURT: State, any redirect?

13 MS. GARDNER: Your Honor, may I just have a

14 moment?

15 THE COURT: Sure.

16 (Brief pause.)

17 MS. GARDNER: Your Honor, I don't have any

18 further questions.

19 THE COURT: Thank you, Officer Daniels. You

20 may step down.

21 (Witness excused.)

22 THE COURT: Does the State have any further

23 witnesses?

24 MS. GARDNER: Your Honor, I do not have any

1 further witnesses at this point. Before resting, I  
2 would seek to admit People's Exhibit No. 1, 2, 3,  
3 and 5. 5's already been admitted. I apologize.  
4 1, 2, and 3 into evidence.

5 THE COURT: Any objection?

6 MS. MILLER: No objection.

7 THE COURT: All right. Those will be admitted  
8 into evidence.

9 (People's Exhibits No. 1, 2, and 3  
10 were admitted into evidence.)

11 MS. MILLER: Judge, at this time I would like  
12 to make a motion for judgement of acquittal. May I  
13 argue?

14 THE COURT: Go ahead.

15 MS. MILLER: Judge, as I said in the beginning  
16 of the opening, the State has presented you two  
17 very weak pieces of evidence in this case:  
18 Eyewitness testimony and a so-called fingerprint  
19 match. And those two pieces of information  
20 contradict each other.

21 I think it's pretty clear from the  
22 eyewitness testimony that [REDACTED] did not match the  
23 descriptions of the offender. For purposes of this  
24 motion, you can take judicial notice of the fact



1     that his age when he came into this courtroom was

2     [REDACTED]

3             THE COURT: No, I cannot. Case law

4     specifically says that I cannot do that.

5             MS. MILLER: You have observed him in court.

6     You know he's not [REDACTED] or [REDACTED] pounds. He's also

7     not [REDACTED] to [REDACTED] years old. He wouldn't be sitting

8     here pending trial if he was [REDACTED] to [REDACTED] years old.

9     We know that he does not match the description

10    given.

11            But the most reliable piece of information

12    was the honest testimony of Mr. [REDACTED] [REDACTED], who

13    couldn't make an identification. He did not see

14    one of the offenders in the room. And Ms. [REDACTED]

15    was 50 percent sure that he resembled and looked

16    like one of the offenders, the person who happened

17    to have a weapon. But that means she was 50

18    percent unsure. And with proof beyond a reasonable

19    doubt, we can't be playing 50/50 guessing games as

20    to whether or not someone is an offender or is not

21    an offender. She identified 50 percent a picture

22    of someone who she thought resembled the offender

23    number one who had the gun, but it was the offender

24    number two who supposedly touched the computer.

1           Now, you've heard some completely -- I  
2   would say give very little weight to the testimony  
3   of the fingerprint examiner. He has extremely  
4   limited education. He doesn't even know basic  
5   terminology in his field. He's got no hard science  
6   education, no knowledge of statistics. He has no  
7   knowledge of population studies. He has no  
8   substantive recent training in the past six years.

9           If you are trying to put yourself out as an  
10   expert, you must work to stay current in your  
11   field. At least, especially, when it's a very  
12   controversial field that is rapidly changing in the  
13   past six years. He has never published anything in  
14   his field. He's not even aware of major  
15   publications in his field. He's not even aware of  
16   major federally-funded comprehensive recent studies  
17   done by world's leading experts. He's not aware  
18   of -- and he's completely bias and unobjective  
19   despite claiming to be scientific.

20           Judge, as we know -- and he's also --  
21   whether he likes to tell you or not that he's  
22   thorough, he was lazy in this case. He put a  
23   latent fingerprint into a database. That database  
24   pulled up 10 matches, three of which were starred.

1 You will see on the exhibit that has been entered  
2 into evidence he did not compare that latent print  
3 to any other individual. He just took the top one.  
4 And when he did that, he wants you to believe that  
5 this messy, smudged, dark spotted, smeared, partial  
6 print provided enough for him to make a comparison.

7 But regardless of that, even if you believe  
8 that he is able to make the comparison, we've had  
9 no testimony whatsoever that says that this  
10 fingerprint that came up in match number one is, in  
11 fact, [REDACTED]'s fingerprint. The  
12 State knows they need to lay certain foundations  
13 like that. That's why they called Kovacs here to  
14 establish that he was present when he took a  
15 fingerprint of [REDACTED]'s.

16 They needed to bring in the person who took  
17 the fingerprint of [REDACTED] and input that  
18 fingerprint into the database to be able to  
19 establish that foundation that this number that  
20 came up on number one is, in fact, [REDACTED]'s  
21 fingerprint, because they've had no other  
22 identification of him in court.

23 THE COURT: Do you have any case law to support  
24 that allegation?

1 MS. MILLER: Judge, it's basic foundation. We  
2 don't know if this fingerprint --

3 THE COURT: Have you heard of business records  
4 exception?

5 MS. MILLER: How is this a business record,  
6 Judge? It's not something that's done in the  
7 ordinary course of business.

8 THE COURT: I'm not going to get into an  
9 argument with you. Go ahead. Make your argument.

10 MS. MILLER: We have not been provided  
11 sufficient foundation that this fingerprint is, in  
12 fact, taken from [REDACTED]. Just because they've  
13 labeled it [REDACTED], does not mean it  
14 is, in fact, [REDACTED] without someone coming in here  
15 to establish that link, that final missing link.  
16 Otherwise, why would they have called Kovacs?

17 They know this. They have to do that.  
18 That's why they called Kovacs to establish that  
19 final missing link by doing the in-court  
20 identification with the fingerprints that he took  
21 and establishing it to [REDACTED].

22 We know that fingerprint analysis is  
23 subjective regardless of methodology, and it's not  
24 a science. ACE-V is a scientific method. But we

1 also know that -- I'm sorry. I misspoke. It's not  
2 a scientific method. It's a method, not a  
3 scientific -- a design to produce objective  
4 results. I'm sorry, Judge. I'm getting tired, and  
5 I'm skipping over my words. Let me just take a  
6 minute to gather my thoughts.

7 Okay. So the examiner didn't even follow  
8 this flimsy methodology, because the ACE-V, the  
9 last part of the ACE-V, is verification. You've  
10 been provided no additional testimony as to  
11 verification. And that verification, for it to be  
12 reliable to the Court, there needs to be -- even in  
13 the ACE-V process, there needs to be some element  
14 of non-biasness where they don't know they are  
15 doing some, sort of, blind comparisons and  
16 verifications, not just a rubber stamp.

17 And they have failed to provide you with  
18 the V part of their own methodology ACE-V by  
19 presenting an unbiased objective verification  
20 examiner who had an opportunity to look at these  
21 prints and also see if he came up with the same  
22 results independently without knowing what the  
23 proposed outcome was.

24 We also know that he didn't even do that in

1 this particular case. He didn't check it against  
2 the print B. We have this print B. Why was there  
3 no comparison done to print B? Whether it was a  
4 palm or not, they had access to [REDACTED]. They had  
5 access to his palm print. They had the ability to  
6 do a comparison with print B, but it's almost as if  
7 he didn't even want to take the chance of trying to  
8 find a comparison and realizing he wasn't going to  
9 do it. Because this print A is so messy, it's like  
10 he's trying to make it fit.

11 He's looking at a clear fingerprint and  
12 then trying to see where he can put little red dots  
13 that look somewhat similar. You look at this  
14 print, it doesn't show what he's talking about.  
15 It's so smeared and distorted that I don't see how  
16 it could be reliable.

17 Then comes the so-called confirmatory.  
18 Judge, I would ask -- I don't quite understand your  
19 ruling. It's pretty clear from Safford he didn't  
20 provide points of comparison like he did when he  
21 was talking about the AFIS print. He just gave a  
22 general conclusion without any documentation,  
23 without any points of comparison.

24 We have no basis for the form of his

1 opinion. He just wants you to be like, just trust  
2 me. I looked at them. Trust me, they match --  
3 without anything to support why they match, why he  
4 thinks it matches. Where does it match? Where are  
5 you saying it matches? How many times does it  
6 match? Nothing. And so I'm asking that you  
7 completely disregard the confirmatory, because it  
8 hasn't be established that it is a reliable  
9 confirmatory, if a confirmatory was done at all.

10 Now, I may have said this already, but he  
11 only focused on [REDACTED]. He did not compare this  
12 to anyone else besides there being hits to nine  
13 other people, two of which who were strong  
14 possibilities. And no comparisons were done to  
15 anyone else who was not in the AFIS system.

16 I would also argue that both the examiner  
17 who took the comparison prints, as well as the lay  
18 latent print examiner, seemed to be of the opinion  
19 that if they do something enough times that that  
20 therefore makes it reliable. Well, Judge, if  
21 you're doing something over and over and over  
22 again, but you're doing it wrong, doing it wrong  
23 multiple times just compounds the problem. It  
24 doesn't make it somehow better or more reliable.

1           And the fact that he doesn't know much  
2   about his field and he is slippery on the stand and  
3   won't give straight answers, and the fact that he  
4   has bias from his prior connection to the CPD and  
5   he doesn't get his work verified and he doesn't  
6   keep up on the latest studies -- and I could go on  
7   and on and on about the ways in which he is a weak  
8   examiner that supports that there is a strong  
9   possibility he is not doing this correctly.

10           And he's unwilling to even -- every  
11   scientist is willing to take on the premise that  
12   perhaps they're wrong and that maybe they could do  
13   things better. He seems to be of the opinion that,  
14   no, because I'm doing this at all the time over and  
15   over and over again and because this is the same  
16   way it's been done for a hundred years, that  
17   therefore, it must be correct. That is such a  
18   non-scientific way of looking at evidence.

19           He's going to start putting people on the  
20   stand now who are using leeches and bleeding us and  
21   say, well, it was done a hundred years ago so it  
22   must still be right. It doesn't make it right just  
23   because you're still doing a bad methodology. When  
24   he has to say that the Public Defender's are the



1 only ones who are calling out or examining his work  
2 for errors or for accuracy, that's pretty sad. And  
3 it's pretty sad when my co-Counsel clearly knows  
4 more about fingerprint analysis than their own  
5 fingerprint, so-called, expert does. That's  
6 shocking.

7 And what's even more shocking is that the  
8 State wants you to say that even in the light most  
9 favorable to them, that this is enough to convict  
10 someone, a 50/50 shot of whether they got the right  
11 person, or in the alternative he left a  
12 fingerprint. Judge, there's just simply not enough  
13 here. I would say there's not even enough if they  
14 were the same person, but the fact that they're two  
15 separate people, one person, sort of, doing a 50/50  
16 ID of him being offender number one, and one  
17 person, sort of, doing a 50/50 ID that he's  
18 offender number two. Both of them are shaky.  
19 Neither of them support each other. And they, in  
20 fact, just increase the doubt that's already there  
21 for each of them. You have nothing else. That's  
22 it.

23 Judge, they haven't proved beyond a  
24 reasonable doubt that [REDACTED] is offender number

1 one. They haven't proven beyond a reasonable doubt  
2 that [REDACTED] is offender number two. This is all  
3 you have. And, Judge, I'm asking you to do the  
4 right thing, which is find my client not guilty and  
5 that the State has just simply not provided you  
6 with enough evidence beyond a reasonable doubt to  
7 find [REDACTED] guilty.

8 THE COURT: State?

9 MS. GARDNER: Judge, in the light most  
10 favorable to the State, we ask that you deny the  
11 motion that was just made by minor's Counsel. They  
12 are completely incorrect to suggest that we're  
13 asking you to do an either/or, either consider  
14 Ms. [REDACTED] identification that was 50 percent or  
15 consider the fingerprint. What we're actually  
16 asking the Court to do, and what the correct thing  
17 to do, is to look at it all in conjunction.

18 Starting with the testimony of the victims,  
19 Ms. [REDACTED] testified and Mr. [REDACTED] testified, and  
20 they both corroborated each other. They gave an  
21 account of what happened that day, and there were  
22 not variations in their accounts. Ms. [REDACTED] was  
23 able to give more detail in terms of the  
24 individuals who were there. Mr. [REDACTED] stated that

1 he was looking at the gun, but both of them gave a  
2 similar scenario.

3 Ms. [REDACTED] did state that she did agree  
4 about the descriptions that she gave of the  
5 individuals when the police came. But these  
6 descriptions of, you know, height and weight, these  
7 are all given in the heat of the moment. You know,  
8 they're scared. They've just been through a  
9 traumatic experience. There were some individuals  
10 that were in their home pointing a gun at them.

11 She even explained that she gave the  
12 weight, because that was how much her husband  
13 weighed. There's nothing that's wrong about that.  
14 Even the age -- when asked about the age, she said  
15 that it was someone who was in their late [REDACTED] or  
16 [REDACTED]. It may not --

17 MS. MILLER: That misstates her testimony.

18 THE COURT: I heard the testimony.

19 MS. GARDNER: It may not be what [REDACTED]  
20 [REDACTED] is, but given her explanation of the  
21 situation of the circumstances she was in, it's not  
22 something that means that [REDACTED] did  
23 not do it. Yes, her photo array was with 50  
24 percent certainty. She acknowledged that. We

1 acknowledged that.

2 And by itself, a photo array that's done  
3 with 50 percent certainty probably couldn't stand  
4 on its own. However, she said -- and it was in  
5 People's Exhibit No. 1 -- this individual resembles  
6 the person who did all of the talking, and she  
7 testified the person who held up the gun. That  
8 person who she identified was the minor respondent,  
9 ~~Michael [REDACTED]~~.

10 Again, by itself, maybe your Honor is not  
11 convinced by that. However, she stood by that 50  
12 percent certainty today when she saw the minor  
13 respondent in court. And not only that, but that  
14 identification is now bolstered, because there is  
15 fingerprint identification in this case.

16 The evidence technicians testified as to  
17 lifting the prints. You heard from Bill Kovacs,  
18 who did the fingerprint card. And ultimately, you  
19 heard from Officer Daniels, who is the latent print  
20 examiner.

21 A lot of argument is being raised on the  
22 fact that he just took the first hit that came up  
23 on AFIS and used that one and magically made an  
24 identification. It's true that it was the first

1 one that came up. AFIS doesn't say this is the  
2 person. AFIS gives a list of suggestions. They  
3 are -- if you look at People's Exhibit No. 5 --  
4 ranked. He started with number one.

5 He started on the top of the list and that  
6 one happened to be the one where he was able to  
7 make an identification. He no longer needed to go  
8 into the other ones, because he made an  
9 identification with the first one. That just  
10 happens to be what the circumstances were in this  
11 case. I'm sure in other circumstances it's not  
12 always the first one, but in this case, that is  
13 just what it happened to be.

14 AFIS doesn't make the matches. Officer  
15 Daniels makes the matches. There's been a great  
16 effort to try to discredit Officer Daniels, to try  
17 to say he doesn't know what he is doing. He's  
18 doing things wrong. He uses a bad methodology. I  
19 would ask your Honor to remember that all of these  
20 assertions are coming from none other than  
21 Ms. Miller and Mr. Cavise, who are very competent  
22 attorneys, but they are not latent print examiners,  
23 and they are not experts in latent prints.

24 There was no expert put on by -- we haven't

1 gotten there -- but what they have been trying to  
2 do through all of their testimony is to try to  
3 instill their own testimony as to what they believe  
4 is correct or what he should be doing. But there  
5 is nothing, really, to discredit what he's doing.

6 What Officer Daniels has been doing, he has been  
7 doing for years. He has -- day in and day out, he  
8 does these comparisons.

9 The Chicago Police Department doesn't  
10 require that you have a forensics background to do  
11 this job. You have to pass a test. You have to go  
12 through a lot of training, a lot of class hours.  
13 He testified to all of that. He's done all of  
14 that. But, most importantly, since he's done all  
15 of that, he continues to go through training, he  
16 continues to go to conferences, and he continues to  
17 do his job.

18 After he made that identification with the  
19 AFIS hit -- and I completely disagree that an  
20 officer needed to be brought in to testify as to  
21 that print that was used in AFIS. In other  
22 circumstances, an officer who fingerprints the  
23 minor for the CB is brought in, that's when the  
24 confirmatory is done with the specific CB print and

1 with the latent print.

2           However, for the purposes of AFIS, AFIS is  
3 a database. It's a tool. And Officer Daniels used  
4 that tool. He got a list of suggestions. He  
5 looked at those suggestions. He, based on what  
6 came up, made an identification on his own.

7           Subsequent to that he was asked to do a  
8 confirmatory report, and he did do a confirmatory  
9 report.

10           And, specifically, going back to the AFIS  
11 issue, he testified that an IR number came up with  
12 the first hit. And that IR number was the IR  
13 number for the minor respondent. He saw that that  
14 -- he looked at his own -- People's Exhibit  
15 No. 5 -- and I'm sorry -- he looked at his own  
16 reports and was able to say that the IR number was,  
17 in fact, the minor respondent's IR number. He  
18 probably doesn't even know who inserted that  
19 evidence into the AFIS system. He didn't have to  
20 testify to that. He's an expert. He used the  
21 tools visible to him. He made a comparison.

22           After that, he did a confirmatory report.  
23 And, again, the foundation was laid for the  
24 fingerprints actually being

1 [REDACTED]'s. The IR number was once again  
2 confirmed as the IR number for the minor  
3 respondent. And Officer Daniels testified that  
4 after doing the same procedure that he did, as he  
5 always does, he was able to find that there were  
6 similarities of sufficient quality and sufficient  
7 quantity for him to determine that an  
8 identification could be made.

9 There is continuous reference to *Safford*;  
10 however, in *Safford* it was -- the only thing that  
11 they had in that case was -- in terms of this  
12 fingerprint evidence -- was that fingerprint --  
13 that latent print examiner. In this case your  
14 Honor has more than that. *Safford* was determining  
15 whether it was an issue of admissibility. Whether  
16 there was zero information provided by the latent  
17 print examiner in terms of what he did and the  
18 conclusion he reached. That is not the case here.

19 Officer Daniels testified in great detail.  
20 He gave your Honor detail as to exactly what he  
21 does, what he did with the comparison with AFIS, as  
22 well as with the confirmatory report. And when you  
23 consider all of that, your Honor has the ability to  
24 give everything the appropriate weight.



1 But we ask your Honor that we have this  
2 situation here where we have the minor who wasn't  
3 identified by 100 percent, but was partially  
4 identified as the offender who looked like he was  
5 in the home with a gun. And then we have -- you  
6 know, the Defense can explain away, you know, he's  
7 not [REDACTED] he's not [REDACTED], he's not [REDACTED] pounds. But  
8 no one can explain how that lift that was lifted  
9 from Mr. [REDACTED]'s laptop computer comes back to the  
10 minor respondent not once, but twice.

11 Given all of the evidence that's been  
12 presented to your Honor, we ask that you deny the  
13 motion.

14 THE COURT: Yes, Ms. Miller?

15 MS. MILLER: Just finally, Judge, we know from  
16 the Mayfield case that many people can share  
17 multiple points of comparison.

18 THE COURT: That is not in front of me.  
19 Nobody's introduced that into evidence. Please  
20 don't argue things that are not in evidence in  
21 front of this Court.

22 MS. MILLER: Well then, Judge, what you do have  
23 in evidence is at least 10 people share points of  
24 comparison. They would not have been matches in

1 AFIS if they did not share some points of  
2 comparison. And three of those people were deemed  
3 important enough to be starred.

4 THE COURT: Actually, that wasn't put in front  
5 of me either. But go ahead.

6 MS. MILLER: The exhibit, Judge, is in  
7 evidence. If you want to disregard the exhibit --

8 THE COURT: The 10 AFIS matches were put in  
9 front of me?

10 MS. MILLER: Yes, Judge, on cross-examination.

11 THE COURT: Which document had the 10 AFIS  
12 matches?

13 MS. MILLER: That is State's No. 5.

14 THE COURT: Does that list the 10 AFIS matches?

15 MS. MILLER: Lists the 10 AFIS matches.

16 THE COURT: Nobody told me that that bottom  
17 section is -- people told me what the fingerprints  
18 were. Nobody ever pointed out to the Court that  
19 the things on the bottom of that page were the  
20 other 10 AFIS matches or that any of them were  
21 starred.

22 MS. MILLER: Judge, that just happened on  
23 cross-examination, because I took --

24 THE COURT: Don't argue with me, Ms. Miller.

1 Go on with your argument, please.

2 MS. MILLER: We can have, possibly, the court  
3 reporters read it back.

4 THE COURT: Nobody ever said what those bottom  
5 10 things were. Go on.

6 MS. MILLER: I believe that questions were  
7 asked --

8 THE COURT: Go on, Ms. Miller.

9 MS. MILLER: I am. I'm not talking about the  
10 specific 10 at the bottom of the page, but he was  
11 substantively asked about the fact that he did not  
12 check the other nine individuals.

13 THE COURT: Yes.

14 MS. MILLER: He was also questioned about the  
15 fact that there were two other individuals who were  
16 starred, and he did not check those two  
17 individuals. So substantively he did get into what  
18 we're referencing. I'm sorry for your Honor that  
19 we didn't link those two up so you knew that that  
20 line of questioning was relating to what's actually  
21 in a document that you can visually see.

22 But that was the -- it doesn't change the  
23 fact that he did testify on cross-examination that  
24 at least nine other people were listed as matches

1 by the AFIS system, which also supports the fact  
2 that people can share multiple points of  
3 comparison. If people could not share multiple  
4 points of comparison, then you would expect AFIS to  
5 only give you one match each time, but they  
6 actually generate as many that are potential  
7 matches. In this case we know, and he testified to  
8 it on cross, that there were at least 10 matches.  
9 None of those were checked. None of them.

10 And, additionally, for the State -- I just  
11 find it shocking that -- it should be clear -- it's  
12 clear to me, I'm hoping it's clear to you that  
13 these are contradictory pieces evidence. If  
14 Ms. [REDACTED] says she's 50 percent sure that [REDACTED]  
15 is offender number one and this examiner is getting  
16 on the stand and he's claiming that this  
17 fingerprint belongs to offender number two when we  
18 know offender number one did not test the computer,  
19 it cannot be the same person.

20 So someone has to be wrong, or both of them  
21 have to be wrong. At the very least what you're  
22 given is 50 percent evidence on both, which is not  
23 sufficient for the State to meet their burden. And  
24 I'm asking that you find that you agree with me on

1       that point.

2           THE COURT: Thank you. At this point the  
3 testimony is to be taken in the light most  
4 favorable to the State. Motion for a directed  
5 finding is denied.

6           Defense rests? Sit down, Ms. Miller.

7       MS. MILLER: Okay.

8       THE COURT: Defense rests?

9       MS. MILLER: Yes, Judge.

10       THE COURT: Any further arguments, State?

11       MS. GARDNER: Your Honor, I would adopt the  
12 argument that we just made. I would just add one  
13 more thing --

14       THE COURT: Sure.

15       MS. GARDNER: -- in terms of closing arguments.

16       THE COURT: Go for it, Ms. Gardner.

17       MS. GARDNER: I believe that what Ms. Miller is  
18 trying to say in terms of, you know, there being  
19 contradicting testimony with offender number one  
20 and offender number two is incorrect. She's  
21 missing a point. The point is, yes, both victims  
22 testified that they saw offender number two, not  
23 offender one who was identified as [REDACTED]  
24 [REDACTED], but offender number two holding the

1 laptop computer.

2           However, both gave very clear testimony  
3 that that laptop is plugged in at all times on the  
4 desk with the screen open, that that's how he  
5 leaves it. That's where it stays. That's where it  
6 belongs. And that when they got down there, it had  
7 already been closed, and it had already been moved.

8           They had said nobody else was in the home.  
9 Nobody else was authorized to be in the home. And  
10 that they didn't know how long the minor respondent  
11 -- or the two offenders were down on that first  
12 floor, because they were up on the second floor.  
13 So it's completely possible that that laptop was  
14 touched before the two offenders even came  
15 upstairs. So to say that just because offender  
16 number two was the one holding it, that there is no  
17 way it could be ~~that's not the testimony~~ is wrong,  
18 because that's not the testimony that you heard  
19 from the two individuals.

20           And just one additional thing in terms of  
21 the argument about there being smudges and smears  
22 and all of that on the fingerprints; your Honor can  
23 see very clearly in People's Exhibit No. 5, and you  
24 watched Officer Daniels explain it, all the points

1 of identification that he found are not in the  
2 middle of the smudge or the smear, but in a place  
3 where he can see what's going on. And he made  
4 those comparisons based on that. He testified that  
5 sometimes there are smudges, sometimes there are  
6 smears, sometimes there are distortions. That  
7 doesn't mean that a fingerprint can't be used to  
8 make a comparison and an identification.

9 And based on the fact that he only used  
10 lift A and not lift B; lift B, he stated, was a  
11 palm print. And he testified that what came up in  
12 AFIS were all fingerprints, not palm prints. So he  
13 couldn't do the comparison with lift B. And your  
14 Honor can see People's Exhibit No. 3, which is the  
15 fingerprint card that Bill Kovacs did, which is  
16 also fingerprints of the fingers and not of the  
17 palm. So it makes complete sense why he used lift  
18 A and not lift B.

19 And with that, we ask that your Honor find  
20 that we have met our burden that this minor  
21 respondent was in the home of Ms. [REDACTED] and  
22 Mr. [REDACTED] on the night of [REDACTED] that he entered  
23 without authority and by using force specifically  
24 pointing a handgun at Ms. [REDACTED], took property from

1     them. And we ask that you find him guilty on all  
2     counts.

3             THE COURT: Any further argument, Ms. Miller?

4             MS. MILLER: No, Judge. Just based on their  
5     argument, do you wish me to present any additional  
6     witnesses?

7             THE COURT: It's not what I wish, Ms. Miller.  
8     Don't put me in that position.

9             MS. MILLER: No. I have no further argument,  
10    Judge.

11            THE COURT: Thank you. All right. As to --  
12    you've actually made a good point. He could have  
13    touched the computer when he first came in. Of  
14    course, that would be pure speculation.

15            And as to the palm print, absolutely no  
16    reason why Mr. Kovacs couldn't have printed  
17    ██████'s palm and had that compared to the latent  
18    palm print that was left. So that's, of course,  
19    just an open question or a gaping hole, you might  
20    call it.

21            So what I've got is a 50 percent, at best,  
22    identification by one person, zero identification  
23    by a second person in a situation where both had  
24    ample opportunity to observe the people that they



1 were with, which is not just weak, it's horribly  
2 failing in terms of identification.

3 As to the admissibility of the AFIS print,  
4 there was adequate identification as to ~~██████████~~'s  
5 IR number that came up on that AFIS print. This is  
6 obviously a document that's kept in the normal  
7 course of record keeping. It is silly to suggest  
8 that in order to lay a foundation for that print --  
9 not that this has anything to do with any ruling --  
10 but to suggest that they would have to find and  
11 bring in the person who entered that print into  
12 AFIS to make it admissible, it is clearly  
13 admissible under the records exception.

14 That being said, what I have is a smudged  
15 print on the AFIS, the latent print versus the AFIS  
16 print identification that gives me, at best, one  
17 comparison, and the confirmatory comparison was  
18 useless when all he does is sit there and say  
19 they're the same. I don't understand how somebody  
20 can suggest that that is -- even though I allowed  
21 that into evidence over the foundation objection,  
22 which was probably a valid objection by the Defense  
23 -- but the reality is -- I mean, it was useless in  
24 terms of its weight to just sit there and tell me

1 they're the same without telling me why they're the  
2 same. Maybe that's admissible, but it certainly is  
3 not convincing to this Court.

4 Mr. Daniels, as a latent print examiner, is  
5 woefully unknowledgeable about anything other than  
6 one DOJ report. And, I mean, it's good that he  
7 goes to a seminar every year, and I'm not saying  
8 that that's insufficient in terms of going to  
9 seminars, but he seems oblivious and doesn't seem  
10 concerned about educating himself as to what's  
11 going on in his own field. Whether or not that  
12 would have shaken his testimony or not is  
13 questionable. But he certainly doesn't strike me  
14 as the world's greatest latent examiner.

15 The Chicago Police Department procedures  
16 where they have no audits, no verification of their  
17 procedures, no participation -- they don't follow  
18 the FBI rules -- casts a doubt on their whole  
19 departmental procedures. I find that to be  
20 woefully inadequate adding to the problems for the  
21 State proving their case beyond a reasonable doubt.  
22 The fact that there wasn't verification on the  
23 ACE-V, but that verification wasn't proven up in  
24 court, and the State attempted to do it purely by

1 hearsay, leaves that hanging.

2 In no way, shape, or form is this proof  
3 beyond a reasonable doubt. There's a finding of  
4 not guilty on all counts.

5 State, do you want your exhibits back?

6 MS. GARDNER: Yes, your Honor.

7 THE COURT: I note for the record there were a  
8 couple of motions from the Defense that we did not  
9 get to: The AFIS motion and motion regarding scope  
10 of cross-examination of expert witnesses;  
11 obviously, those become irrelevant due to the  
12 finding.

13 (Which were all the proceedings had in  
14 the above-entitled cause.)  
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STATE OF ILLINOIS )  
COUNTY OF C O O K )

SS.

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
DEPARTMENT OF JUVENILE JUSTICE AND CHILD PROTECTION  
JUVENILE JUSTICE DIVISION

I, Morgan D. Antosiak, certify the foregoing to  
be a true and accurate transcript of the electronic  
recording of the proceeding of the above-entitled cause  
which recording contained a certification in accordance  
with rule or administrative order.

  
Court Specialist

DATE: 03/23/2016